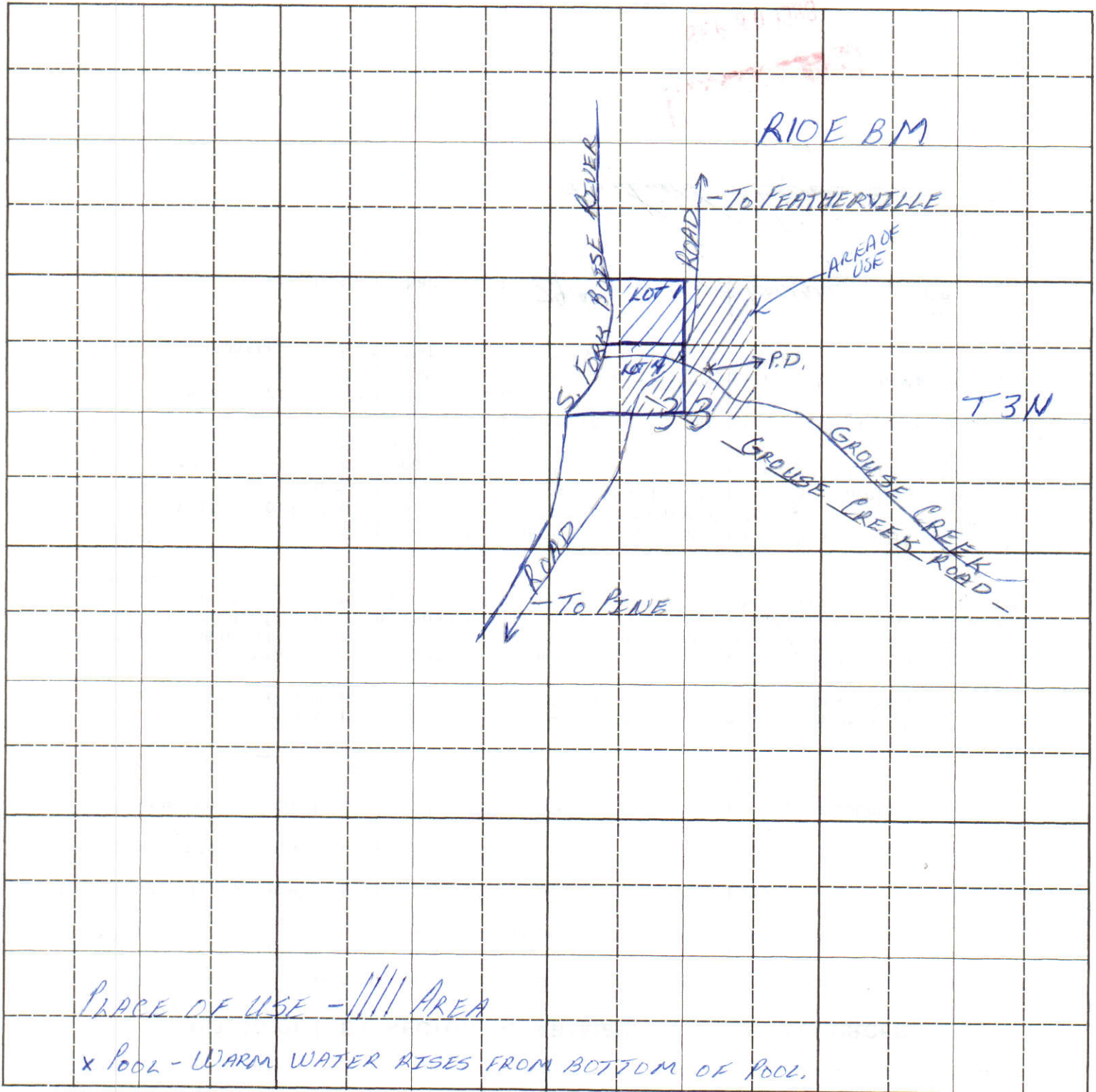


13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



# PLAT SHOWING WILLIS CARRIE'S PARADISE SUBDIVISION

A PORTION OF SECTION 33, T.3N, R.10E, B.M.  
ELMORE COUNTY, IDAHO  
1979



(SEE SHEET 1)

BLOCK 1  
LOT 36

6' Wide Pedestrian And  
Utility Easement

NOTE:  
Lot 29-30 As Shown Hereon  
Is One Lot And Has Been  
Designated "29-30" For The  
Purpose Of Consecutive Lot  
Numbering Throughout This  
Subdivision.

## LEGEND

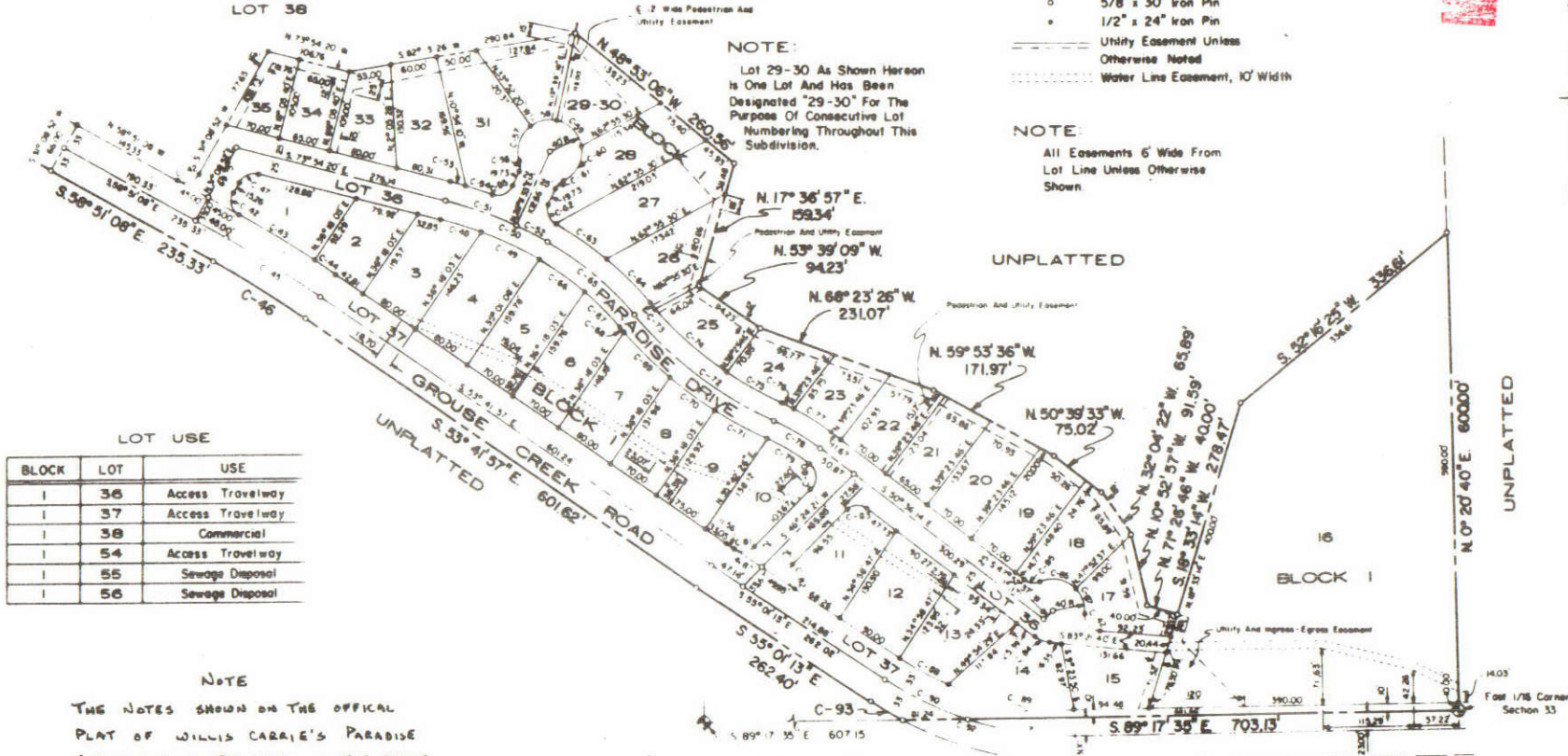
- Subdivision Limits
- Brass Cap
- 5/8" x 30" Iron Pin
- 1/2" x 24" Iron Pin
- Utility Easement Unless  
Otherwise Noted
- Water Line Easement, 10' Width

## NOTE:

All Easements 6' Wide From  
Lot Line Unless Otherwise  
Shown

RECORDED

SEP 30 1988



## LOT USE

| BLOCK | LOT | USE              |
|-------|-----|------------------|
| I     | 36  | Access Travelway |
| I     | 37  | Access Travelway |
| I     | 38  | Commercial       |
| I     | 54  | Access Travelway |
| I     | 55  | Sewage Disposal  |
| I     | 56  | Sewage Disposal  |

## NOTE

THE NOTES SHOWN ON THE OFFICIAL  
PLAT OF WILLIS CARRIE'S PARADISE  
SUBDIVISION AS RECORDED IN THE OFFICE  
OF THE ELMORE COUNTY RECORDER ARE  
NOT SHOWN HEREON

*Sam*  
8-15-90

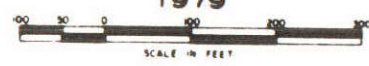
J-U-B ENGINEERS, INC.  
Engineers, Planners  
Nampa, Idaho

DWG. NO. N771231S SHEET 3 OF 3

PLAT BOOK PAGE

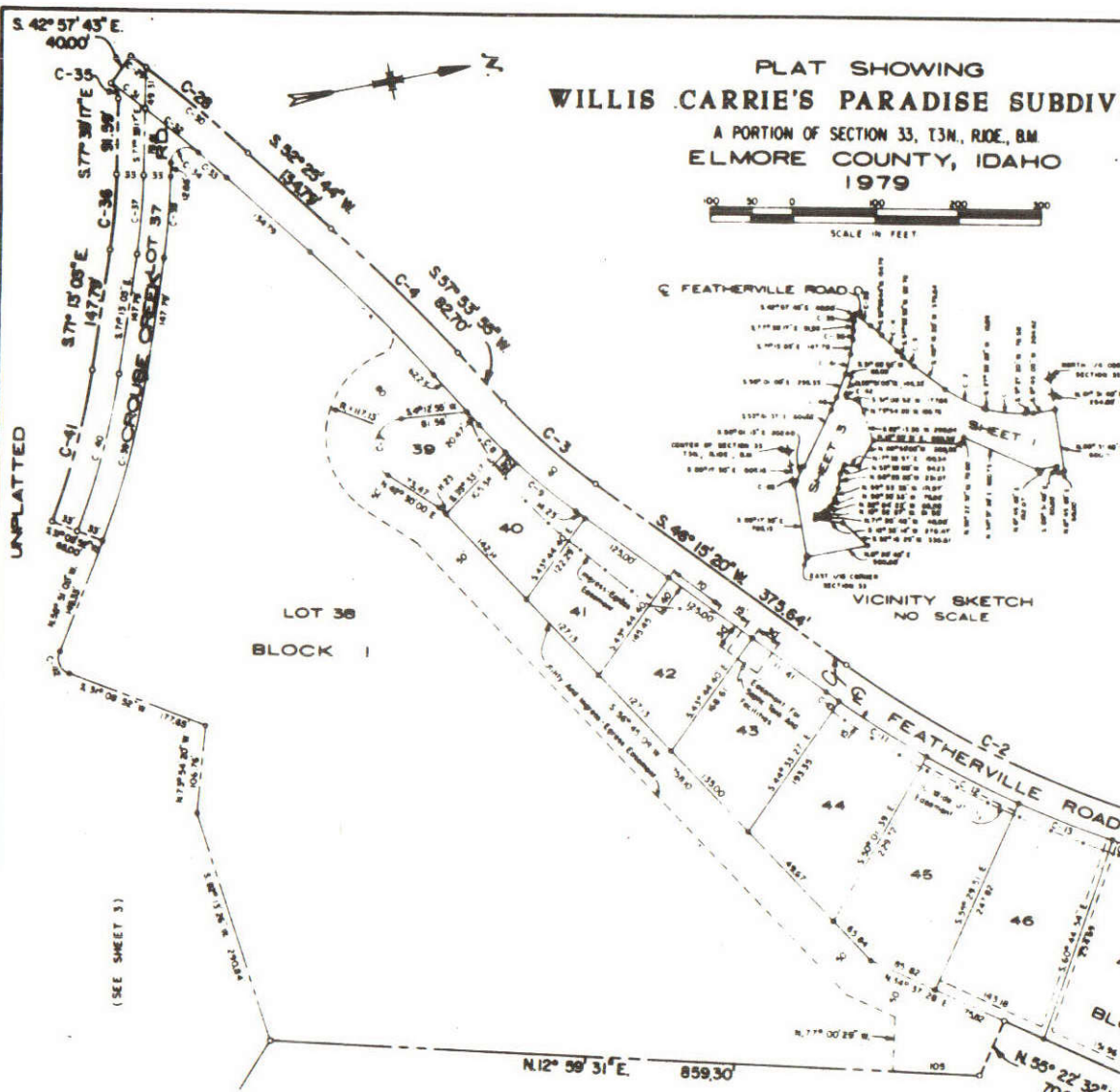
RECORDED  
SEP 30 1979

# PLAT SHOWING WILLIS CARRIE'S PARADISE SUBDIVISION A PORTION OF SECTION 33, T3N., R10E., BM. ELMORE COUNTY, IDAHO 1979



CURVE DATA

| Curve No. | Stationing            | Length | Radius  | Chord | Angle  | Area    | Perimeter |
|-----------|-----------------------|--------|---------|-------|--------|---------|-----------|
| C-1       | 1+00.00 to 1+16.55    | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-2       | 1+16.55 to 1+27.28    | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-3       | 1+27.28 to 1+40.00    | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-4       | 1+40.00 to 1+53.64    | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-5       | 1+53.64 to 1+70.00    | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-6       | 1+70.00 to 1+85.00    | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-7       | 1+85.00 to 1+100.00   | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-8       | 1+100.00 to 1+116.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-9       | 1+116.55 to 1+127.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-10      | 1+127.28 to 1+140.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-11      | 1+140.00 to 1+153.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-12      | 1+153.64 to 1+170.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-13      | 1+170.00 to 1+185.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-14      | 1+185.00 to 1+200.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-15      | 1+200.00 to 1+216.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-16      | 1+216.55 to 1+227.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-17      | 1+227.28 to 1+240.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-18      | 1+240.00 to 1+253.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-19      | 1+253.64 to 1+270.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-20      | 1+270.00 to 1+285.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-21      | 1+285.00 to 1+300.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-22      | 1+300.00 to 1+316.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-23      | 1+316.55 to 1+327.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-24      | 1+327.28 to 1+340.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-25      | 1+340.00 to 1+353.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-26      | 1+353.64 to 1+370.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-27      | 1+370.00 to 1+385.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-28      | 1+385.00 to 1+400.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-29      | 1+400.00 to 1+416.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-30      | 1+416.55 to 1+427.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-31      | 1+427.28 to 1+440.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-32      | 1+440.00 to 1+453.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-33      | 1+453.64 to 1+470.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-34      | 1+470.00 to 1+485.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-35      | 1+485.00 to 1+500.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-36      | 1+500.00 to 1+516.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-37      | 1+516.55 to 1+527.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-38      | 1+527.28 to 1+540.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-39      | 1+540.00 to 1+553.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-40      | 1+553.64 to 1+570.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-41      | 1+570.00 to 1+585.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-42      | 1+585.00 to 1+600.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-43      | 1+600.00 to 1+616.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-44      | 1+616.55 to 1+627.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-45      | 1+627.28 to 1+640.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-46      | 1+640.00 to 1+653.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-47      | 1+653.64 to 1+670.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-48      | 1+670.00 to 1+685.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-49      | 1+685.00 to 1+700.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-50      | 1+700.00 to 1+716.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-51      | 1+716.55 to 1+727.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-52      | 1+727.28 to 1+740.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-53      | 1+740.00 to 1+753.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-54      | 1+753.64 to 1+770.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-55      | 1+770.00 to 1+785.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-56      | 1+785.00 to 1+800.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-57      | 1+800.00 to 1+816.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-58      | 1+816.55 to 1+827.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-59      | 1+827.28 to 1+840.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-60      | 1+840.00 to 1+853.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-61      | 1+853.64 to 1+870.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-62      | 1+870.00 to 1+885.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-63      | 1+885.00 to 1+900.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-64      | 1+900.00 to 1+916.55  | 16.55  | 1000.00 | 31.42 | 180.00 | 1000.00 | 31.42     |
| C-65      | 1+916.55 to 1+927.28  | 10.73  | 1000.00 | 19.63 | 180.00 | 1000.00 | 19.63     |
| C-66      | 1+927.28 to 1+940.00  | 12.72  | 1000.00 | 23.18 | 180.00 | 1000.00 | 23.18     |
| C-67      | 1+940.00 to 1+953.64  | 13.64  | 1000.00 | 25.13 | 180.00 | 1000.00 | 25.13     |
| C-68      | 1+953.64 to 1+970.00  | 16.36  | 1000.00 | 30.17 | 180.00 | 1000.00 | 30.17     |
| C-69      | 1+970.00 to 1+985.00  | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |
| C-70      | 1+985.00 to 1+1000.00 | 15.00  | 1000.00 | 28.27 | 180.00 | 1000.00 | 28.27     |



**NOTE**

THE NOTES SHOWN ON THE OFFICIAL PLAT OF WILLIS CARRIE'S PARADISE SUBDIVISION AS RECORDED IN THE OFFICE OF THE ELMORE COUNTY RECORDER ARE NOT SHOWN HEREON.

*Handwritten:* 8-15-80

| BLOCK | LOT | USE              |
|-------|-----|------------------|
| 1     | 36  | Access Travelway |
| 1     | 37  | Access Travelway |
| 1     | 38  | Commercial       |
| 1     | 54  | Access Travelway |
| 1     | 55  | Sewage Disposal  |
| 1     | 56  | Sewage Disposal  |

**LEGEND**

- Subdivision Limits
- Brass Cap
- 5/8" x 30" Iron Pin
- 1/2" x 20" Iron Pin
- Utility Easement Unless Otherwise Noted

**NOTE:**

All Easements 6' From Lot Line Unless Otherwise Shown.

J-U-B ENGINEERS, INC.  
Engineers, Planners  
Nampa, Idaho

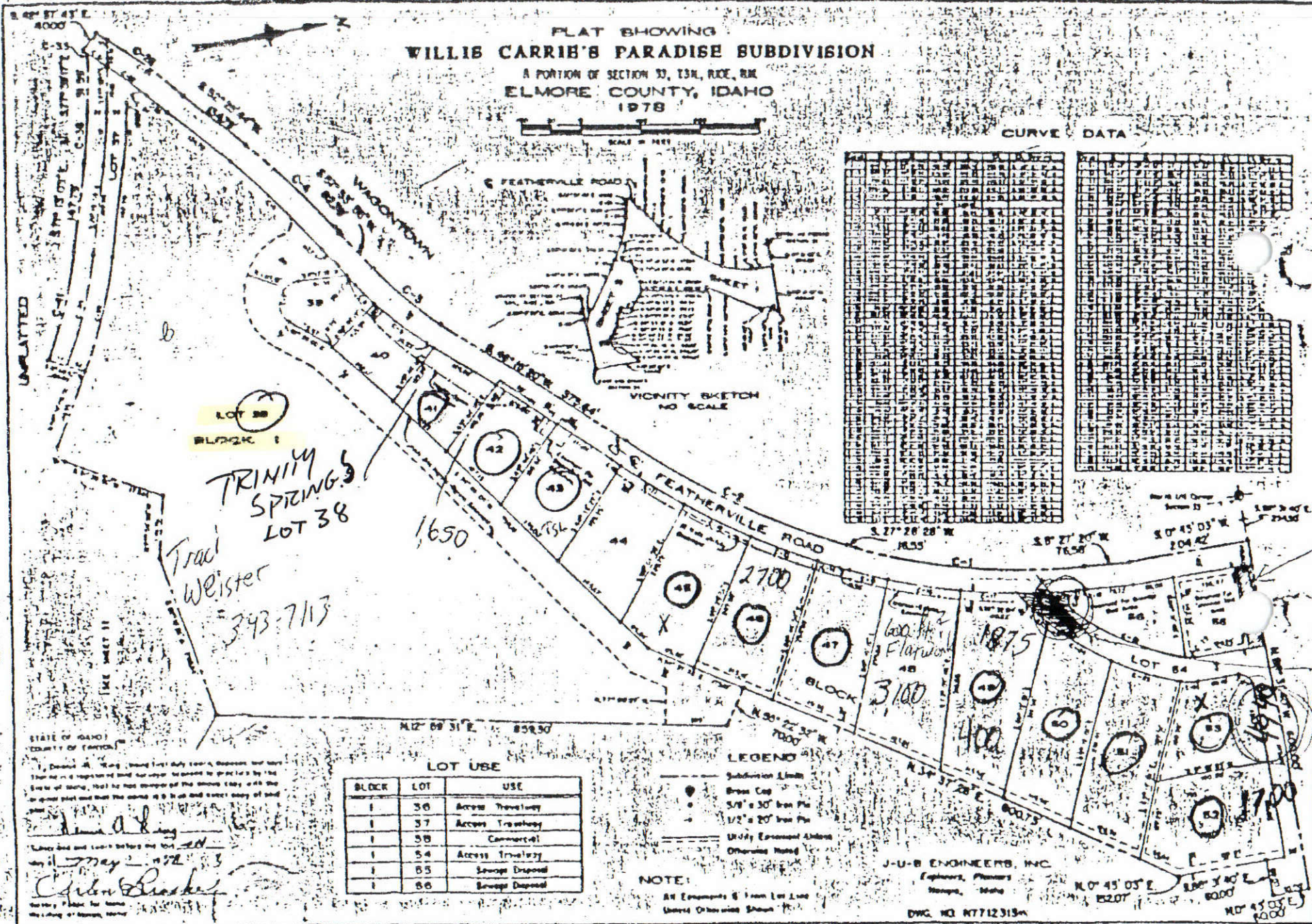
DWG. NO. N771231S SHEET 1 OF 3

EXHIBIT A

APR 18 2000

MICROFILMED

04





Paradise  
Lodge  
(South  
Elevation)

Lot 38

MICROFILMED

JAN 12 1998



Cabin to REAR of Lodge (CA 51)

MICROFILMED

Lot 38

JAN 12 1998



PARADISE LODGE;  
SHOP + LAUNDRY Bldg (NOTED)  
LOT 38

JAN 12 1998



Cabin and Foundation  
(East of Lodge)  
Lot 38

MICROFILMED

JAN 12 1998



NEW CONSTRUCTION WITH  
EXISTING HOME (IN REAR)  
PARADISE SUBDIVISION

MICROFILMED

JAN 12 1998



RECENT HOME and GARAGE  
MICROFILMED  
PARADISE SUBDIVISION  
JAN 12 1998



Wagon Town MICROFILMED  
Cabin & Trailer JAN 12 1998



Home Under Construction  
Paradise Subdivision

MICROFILMED  
JAN 12 1998



Recent Home  
Paradise Subdivision

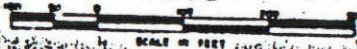
MICROFILMED

JAN 12 1998

12

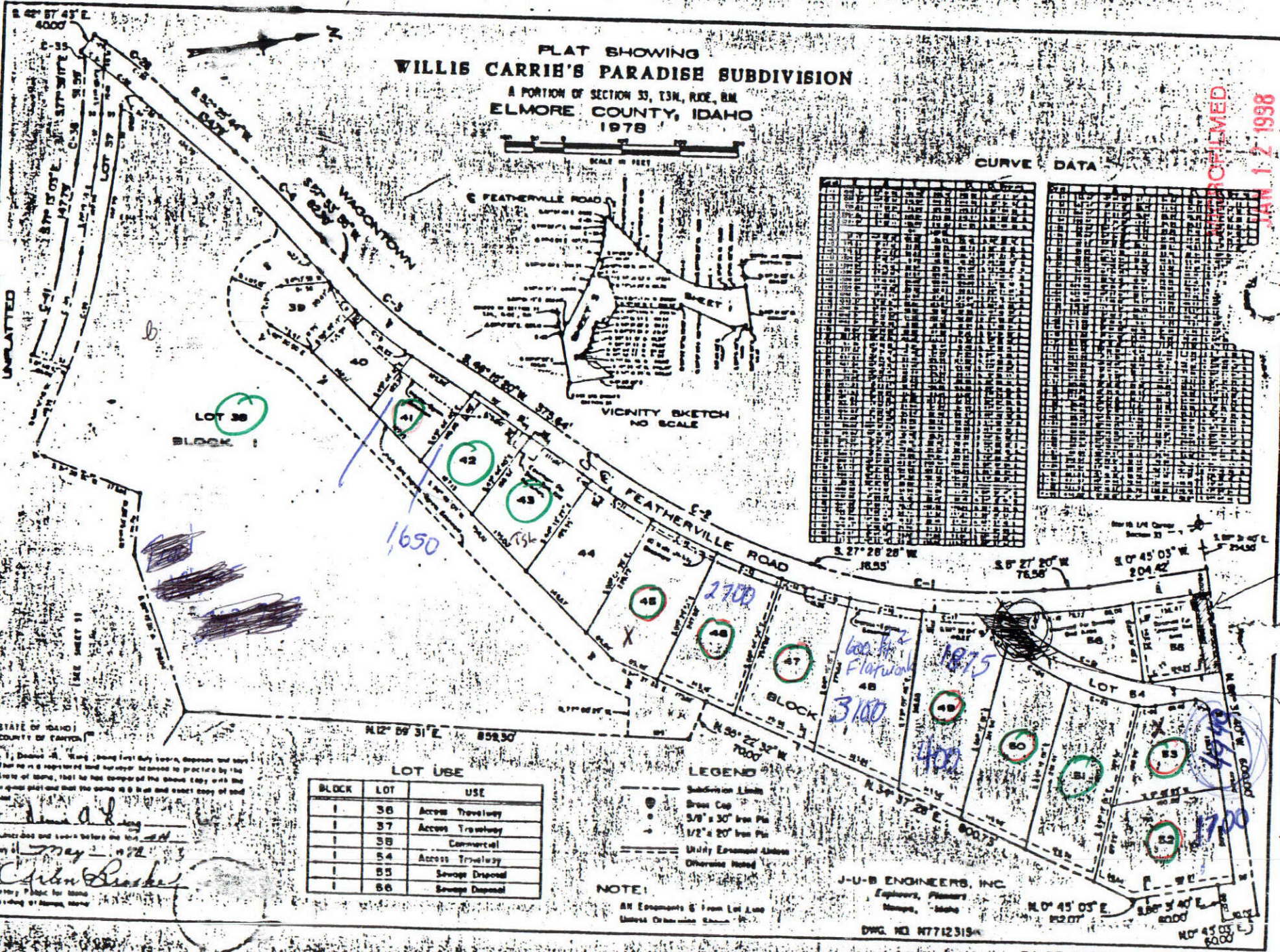
EXHIBIT A

PLAT SHOWING  
WILLIS CARRIE'S PARADISE SUBDIVISION  
A PORTION OF SECTION 33, T3N, R1E, RM  
ELMORE COUNTY, IDAHO  
1978



CURVE DATA

| STATION | CHORD BEARING   | CHORD DIST. | ARC BEARING | ARC DIST. | PI | PC | PT |
|---------|-----------------|-------------|-------------|-----------|----|----|----|
| 1       | S 27° 28' 28" W | 18.35       |             |           |    |    |    |
| 2       | S 27° 20' W     | 76.58       |             |           |    |    |    |
| 3       | S 0° 45' 03" W  | 204.42      |             |           |    |    |    |
| 4       | S 27° 20' W     | 76.58       |             |           |    |    |    |
| 5       | S 27° 28' 28" W | 18.35       |             |           |    |    |    |



STATE OF IDAHO  
COUNTY OF CANYON

I, Deane A. King, being first duly sworn, depose and say that no registered land surveyor licensed to practice by the State of Idaho, that he has compared the above plat with the original plat and that the same is a true and exact copy of said plat.

*Deane A. King*  
Subscribed and sworn before me this 24th day of May, 1978.

*Carolee Brasher*  
Notary Public for Idaho  
My Comm. Expires 12/31/80

| LOT USE |     |                 |
|---------|-----|-----------------|
| BLOCK   | LOT | USE             |
| 1       | 36  | Across Tractway |
| 1       | 37  | Across Tractway |
| 1       | 38  | Commercial      |
| 1       | 54  | Across Tractway |
| 1       | 55  | Sewage Disposal |
| 1       | 56  | Sewage Disposal |

- LEGEND
- Subdivision Limits
  - Brown Cap
  - 5/8" x 30" Iron Pin
  - 1/2" x 20" Iron Pin
  - Utility Easement Address
  - Otherwise Noted

NOTE:

All Easements 5' from Lot Line  
Unless Otherwise Shown

J-U-B ENGINEERS, INC.  
Engineers, Planners  
Boise, Idaho

DWG. NO. H77123154

RECORDED

JAN 12 1998

Illegal Road (installed by Earl) Karl & Linda's Lane  
Legal Road (not installed)

**LOT 30**

**CALL FOR FREE**

Water Line Elevation, 10' Width

All Easements 6' Wide From  
Lot Line Unless Otherwise  
Shown.

UNPLATTED

2208

MICROFILMED

JAN 12 1998

UNCLASSIFIED

100000

LOT 'USE

| Q1 | USE              |
|----|------------------|
| 56 | Access Travelway |
| 57 | Access Travelway |
| 58 | Commercial       |
| 54 | Access Travelway |
| 55 | Sewage Disposal  |
| 6  | Sewage Disposal  |

NO )  
(NYON) 88

King being first duly sworn, deposes and says that he has compared the above copy with the original and that the same is a true and exact copy of said

Sample before and after

Page 112

1961

**五、**

For more information, call 1-800-368-5868.

DWG. NO. W77

PLAT BOOK \_

**SHEET**

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**BENEFICIAL USE FIELD REPORT**

RECEIVED  
JUL 30 1991

Department of Water Resources

**A. GENERAL INFORMATION**

1. Owner: Paradise Homeowners Assoc., Inc.  
Current Address: HC 87 Box 42 c/o Rocky Bar Stage Mtn Home, ID. 83647  
2. Accompanied by: Elmer Maas  
Address: HC 87 Box 401 Mtn. Home, ID. 83647  
Relationship to Permit Holder: Maint. Supervisor  
3. Source: Springs tributary to Grouse Creek

Permit No. 63-10559  
Phone No. 734-6054 or 543-6444 or 653-2299  
EXAM. DATE: 11/16/89  
Phone No. 653-2299

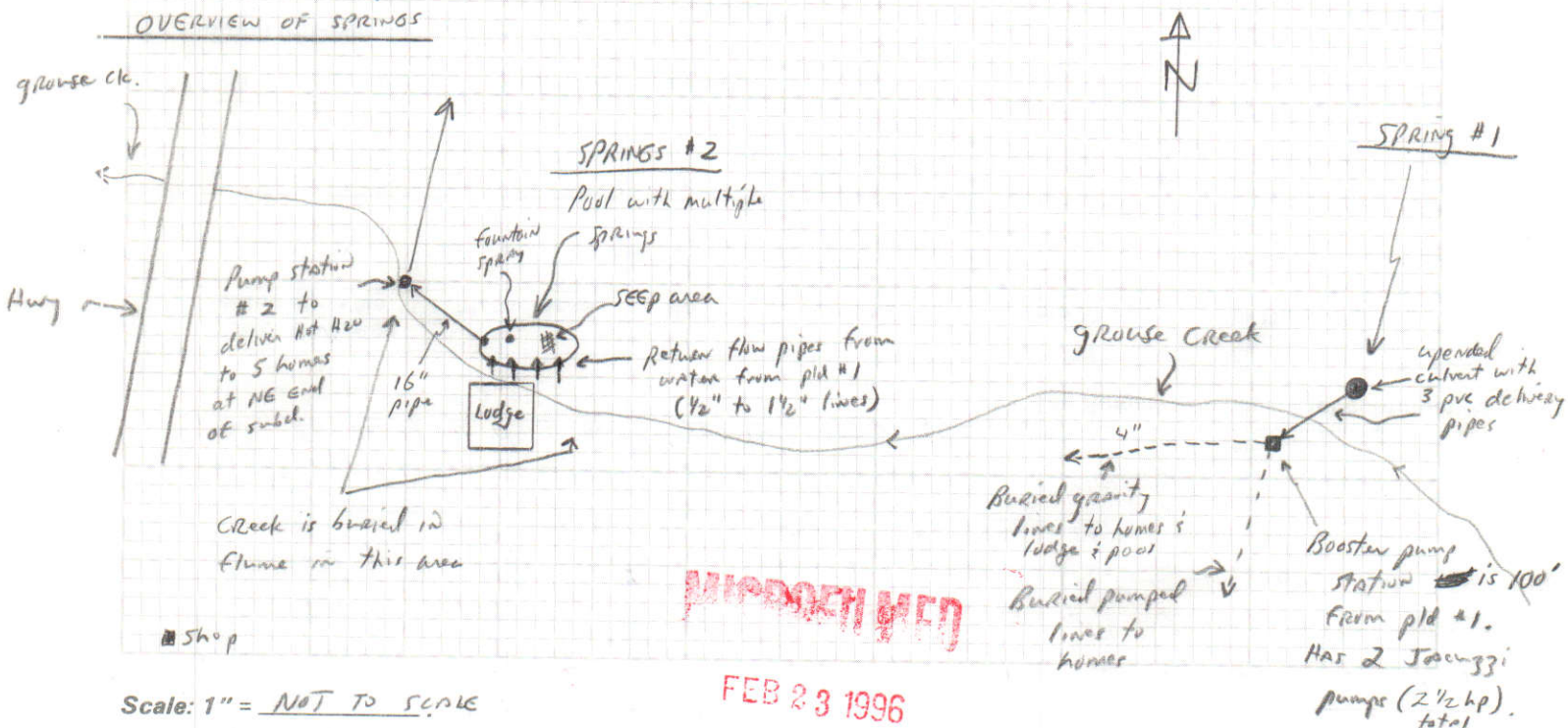
**B. OVERLAP REVIEW**

1. Other water rights with same place of use: 63-10559 -04221 -04046 -05208  
2. Other water rights with same point of diversion: 63-04221 -04046 -05268 -10559  
☐ Copies Attached ☐ Copies of Field Exam's Attached

**C. SYSTEM DESCRIPTION**

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☒ Alternative diagram attached

SEE ORIGINAL DIAGRAM, MAPS, PHOTOS, SUBD. PLAT IN EXAM 63-10559



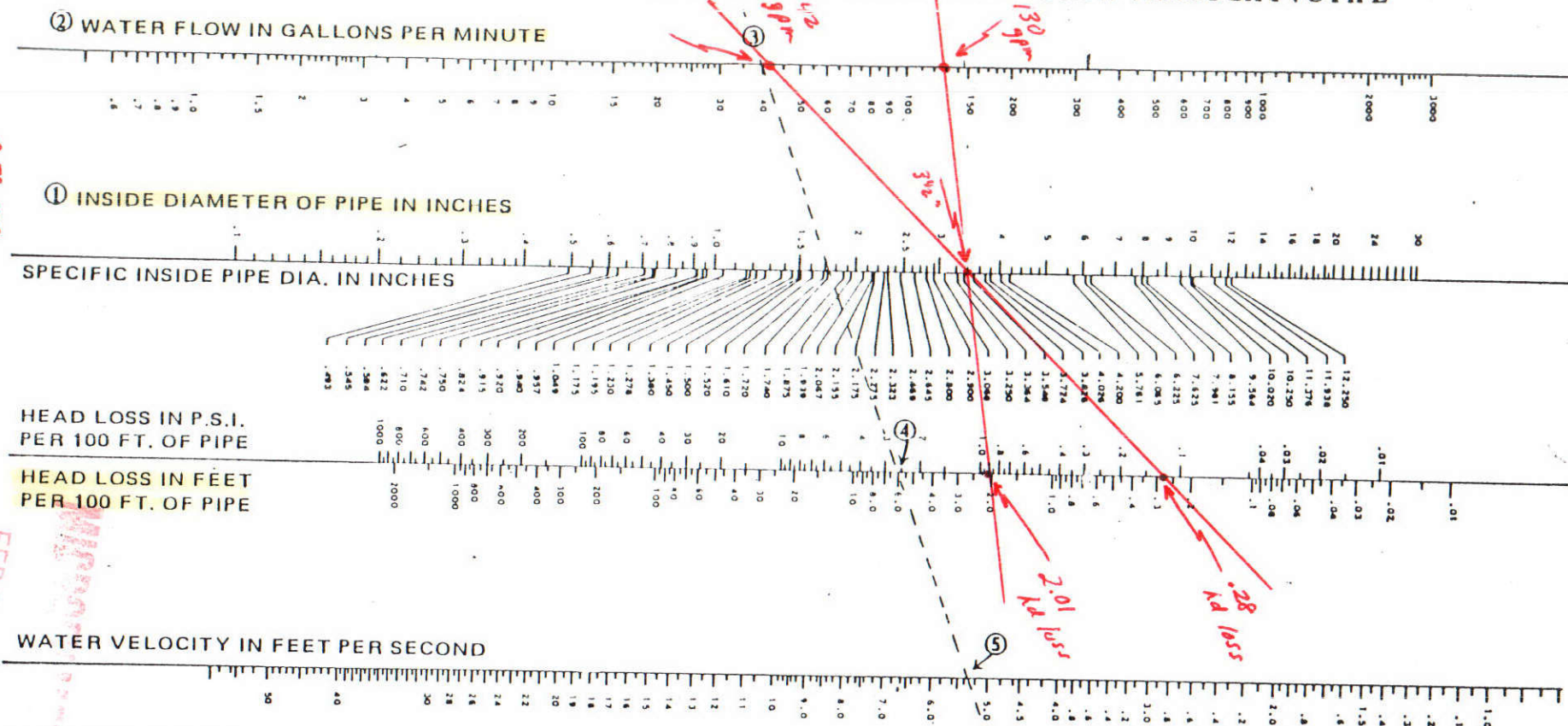
Scale: 1" = NOT TO SCALE

FEB 23 1996

2. ☐ Copy of U.S.G.S. Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).  
☐ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater).  
☐ Aerial Photo Attached N/A (required for irrigation of 10 acres or more).

see 63-10559

FIGURE 36 - FRICTION LOSS CHARACTERISTICS OF WATER FLOW THROUGH PVC PIPE



HOW TO USE THIS GRAPH:

1. Select the desired pipe size (inside diameter).
2. Determine the amount of water to flow through the pipe.
3. Place a straight-edge on these two points.
4. The point at which the straight-edge intersects the head loss line and the velocity line give these two values under the given conditions.
5. This graph should be used for approximate values only.

EXAMPLE:

- 1 1/2" schedule A pipe (I.D. = 1.740") ①  
40 gallon per minute service ②
1. Line up these points with a straight-edge ③
  2. Read 2.6 psi (or 6 ft.) from the head-loss line ④
  3. Read 5.38 ft. per second from the velocity line ⑤

THE VALUES ON THIS GRAPH ARE BASED ON THE WILLIAMS AND HAZEN FORMULA:

$$(EQUATION 83) \quad f = .2083 \left( \frac{100}{C} \right)^{1.85} \times \frac{Q^{1.852}}{d_i^{4.8685}}$$

WHERE:

f = friction head in feet of water per 100 feet of pipe

d<sub>i</sub> = Inside diameter of pipe in inches

Q = Flow in gallons per minute

C = Constant for inside roughness of pipe (150 for PVC)

Assume I.D. = 1 1/2"

224

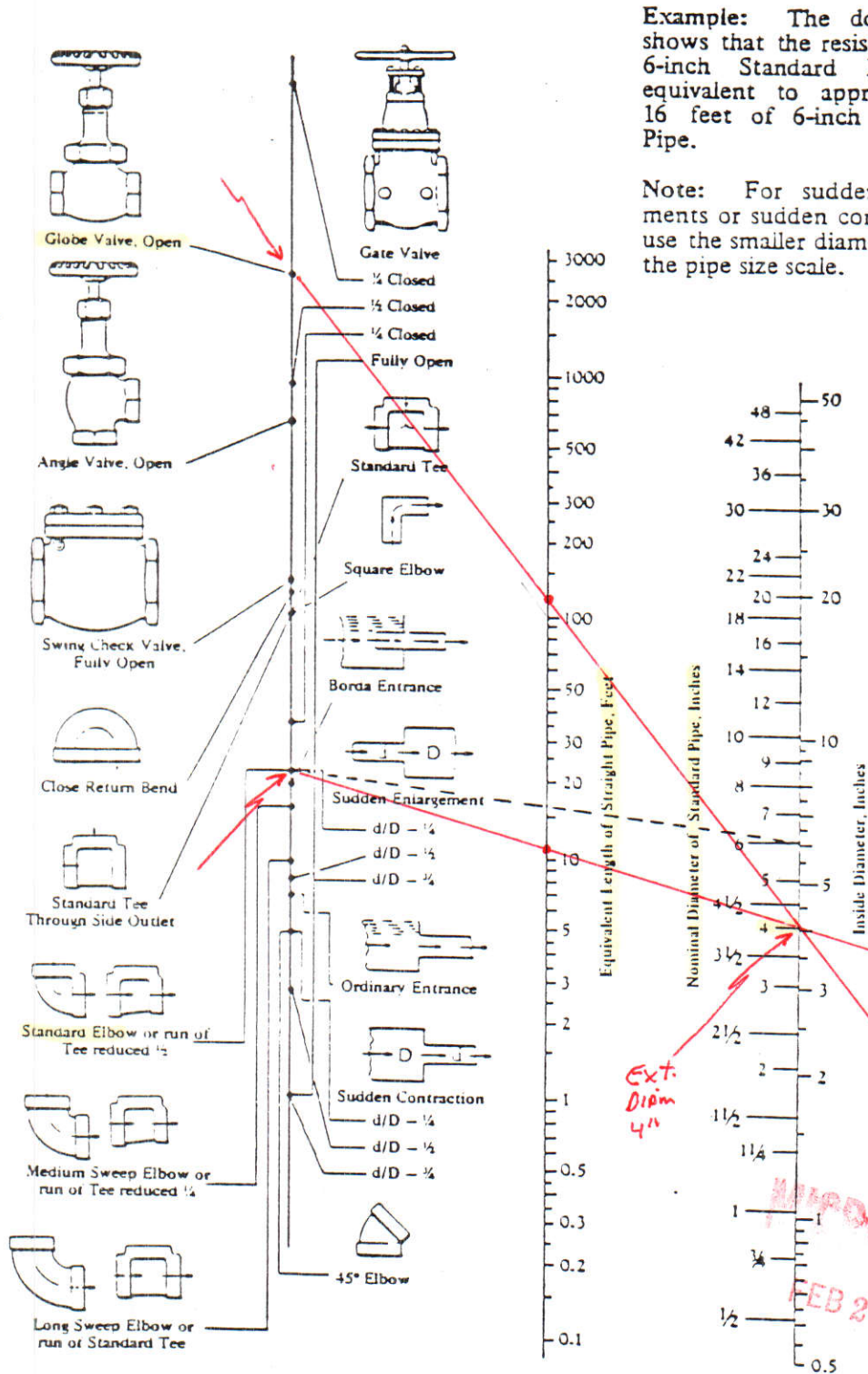
FEB 23 1996

63-10560

FIGURE 37 — RESISTANCE OF VALVES AND FITTINGS TO FLOW OF FLUIDS

Note: Head loss through check valves varies with types manufactured.  
Consult manufacturer for correct values.

63.10560



From P10 #1, 4" O.D. gravity pipe

Assume 1 globe valve, open

Assume 1 std. elbow per 100' pipe

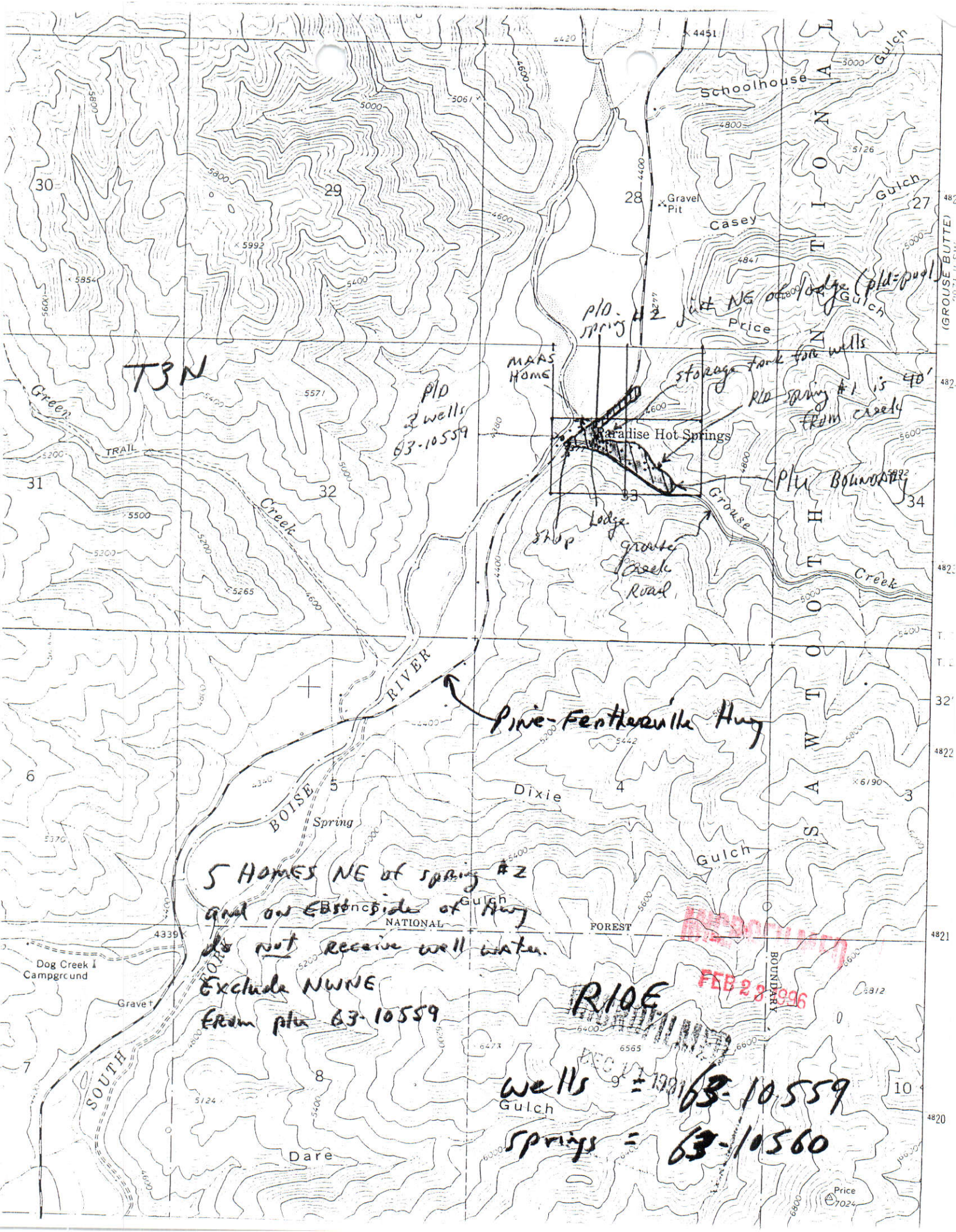
120' eq. for 1 time valve loss

11' loss per 100' of pipe for elbows



Area of Watersurface 315.9 Acr. of Public Land 22634.94 A Total number of Acres 22950.84

| Surveys Designated | By Whom Surveyed  | Date of Contract | Amount of Surveys<br>M. Ch. Lk. | When Surveyed | Magn. Declination |
|--------------------|-------------------|------------------|---------------------------------|---------------|-------------------|
|                    | William Allen and |                  |                                 |               |                   |



T3N

P/D  
2 wells  
63-10559

MARS  
HOME

P/D  
Spring #2

just NE of Lodge (P/D = pool)

storage tank for wells

Rd Spring #1 is 40'  
from creek

Plu Boundary

Paradise Hot Springs

Lodge  
Shop  
Grouse  
Creek  
Road

Pine-Fetherville Hwy

5 HOMES NE of Spring #2  
and on East side of Hwy  
do not receive well water.

Exclude NWNE  
from plu 63-10559

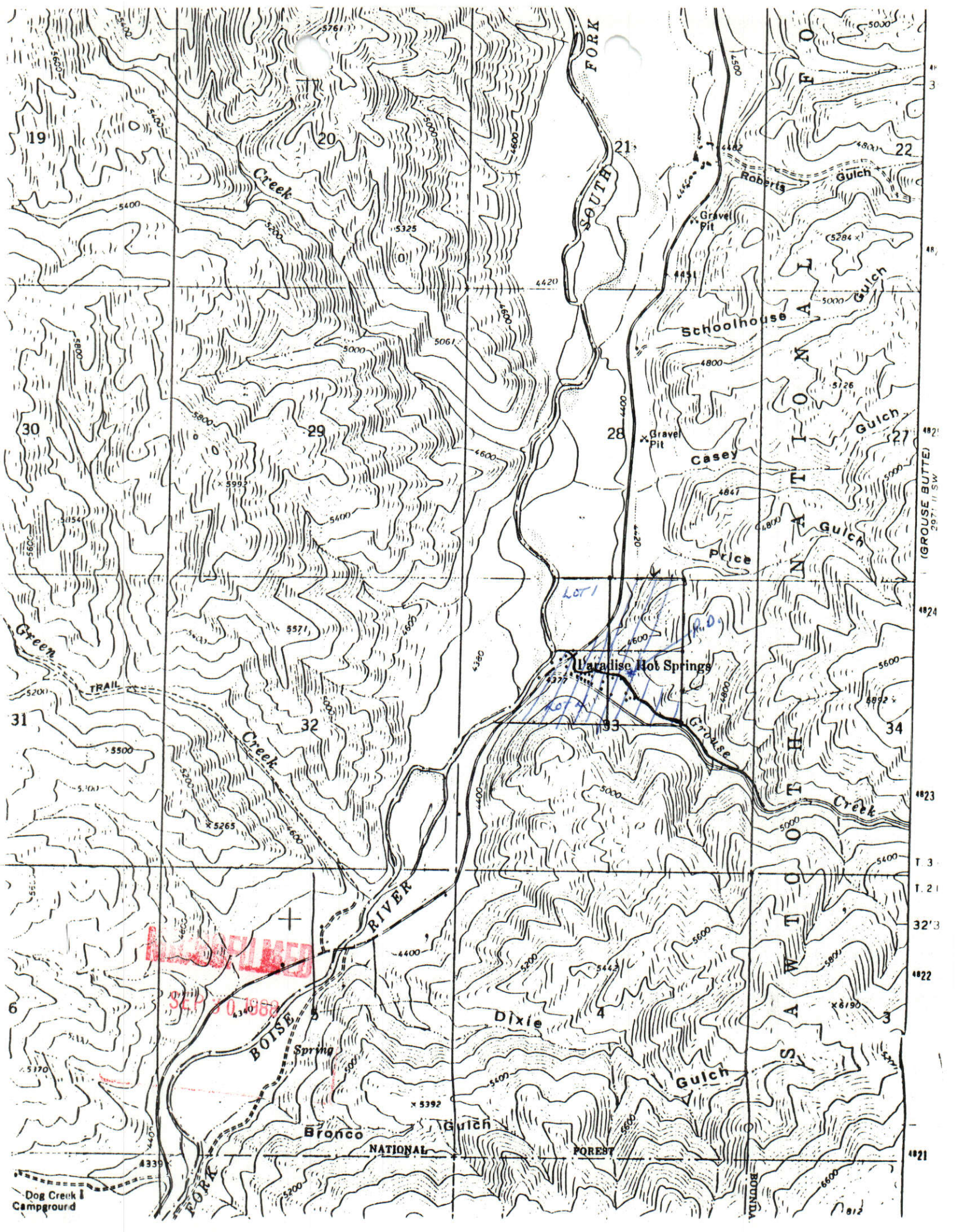
R10E

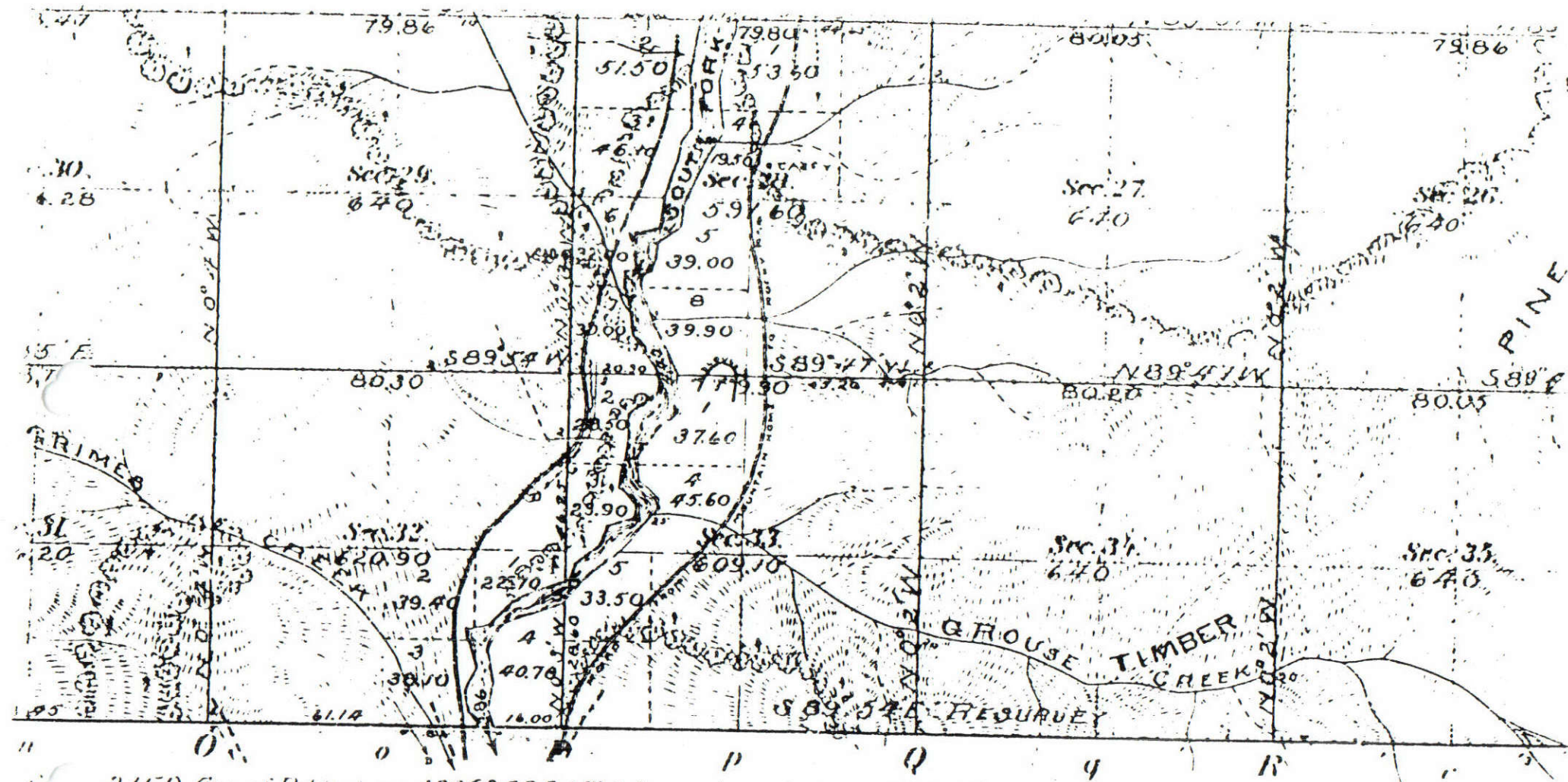
FEB 23 1996

Wells  
Gulch

Spring

63-10559  
63-10560





315.9 Sec. of Public Land 22634.94 A. Total number of Acres 22950.84

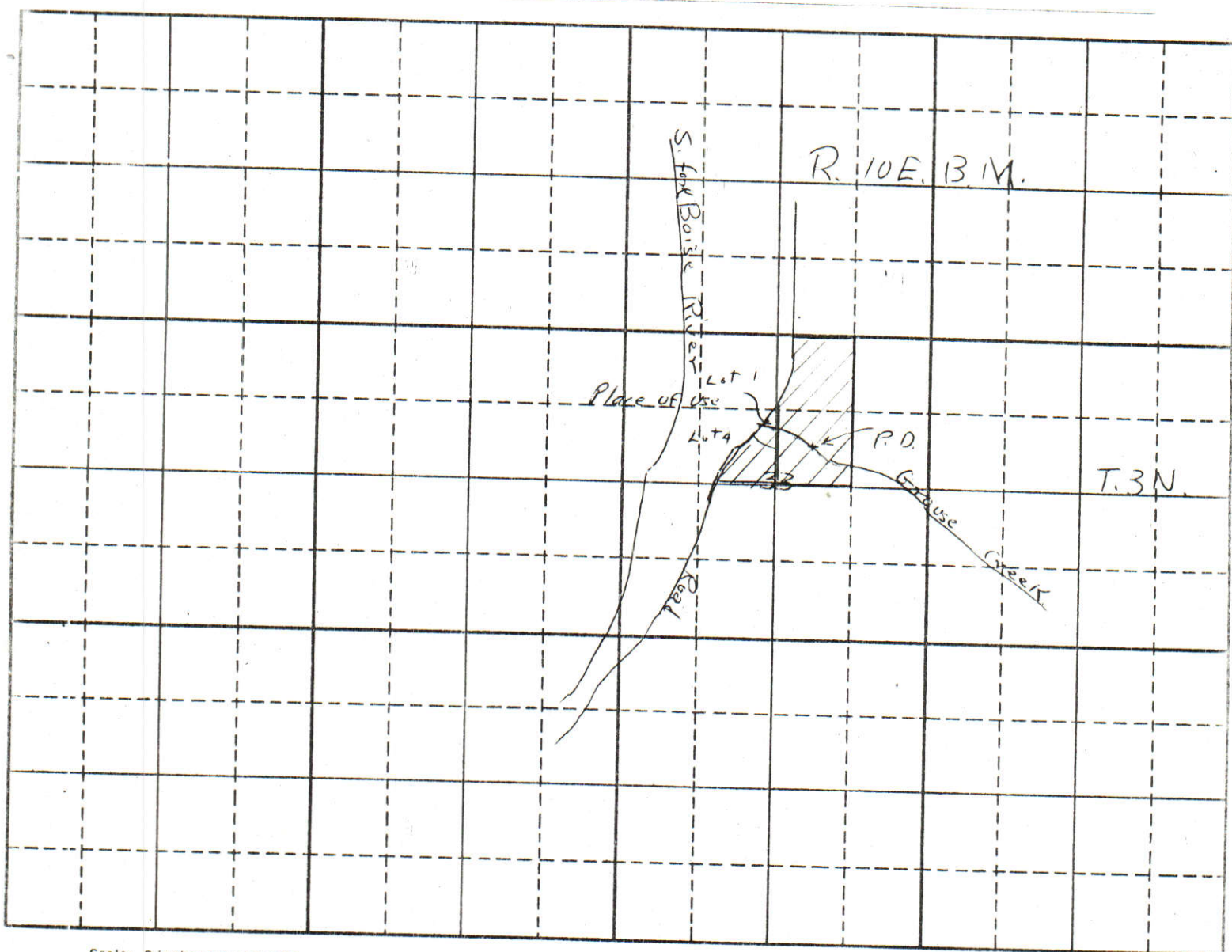
| Whom Surveyed   | Date of Contract              | Amount of Surveys |     |     | When Surveyed | When Surveyed |
|-----------------|-------------------------------|-------------------|-----|-----|---------------|---------------|
|                 |                               | M                 | Ch. | De. |               |               |
| at Boise, Idaho | 25 <sup>th</sup> June 1, 1904 | 23                | 76  | 50  | Aug 25        | Sept 29, 1904 |
|                 |                               | 59                | 69  | 13  | Sept 30       | Oct 20, 1904  |
|                 |                               | 18                | 34  | 44  | Oct. 21       | 25, 1905      |

RECEIVED  
SEP 30 1988

The above Map  
Boise  
notes of the survey  
Surveyor  
Boise Co.  
Idaho

Swimming pool developed in 1918, used from Jan. 1 to Dec. 31, 1½ acre feet capacity. Pool is located in Lot 2/3 Hot water rises in bottom of pool for swimming which is cooled by water from Grouse Creek. 1/3 Hot water rise adjacent to point of diversion and is used for heating all buildings on the Paradise property including domestic and hot mineral baths. All hot water would equal approximately 2000 gallons per hour and is all in use on the Paradise property.

63 4251



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of Ada

SS.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right; together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this

11<sup>th</sup>

day of

Thillis M. Connie  
(Claimant)

19 73

Notary Public

Residing at

Lyle Glen Saxton  
Boise, Idaho

My commission expires

14 July 1974

Rec'd # 11013

For Department Use Only

Received by

R.W. H.

Date

6-11-73

Exception filed by:

Prelim. check by

R.W. H.

Date

6-11-73

\$10.00 fee received by

ey

Date

6-11-73

Approved for publication by

Published in

Mt. Home News

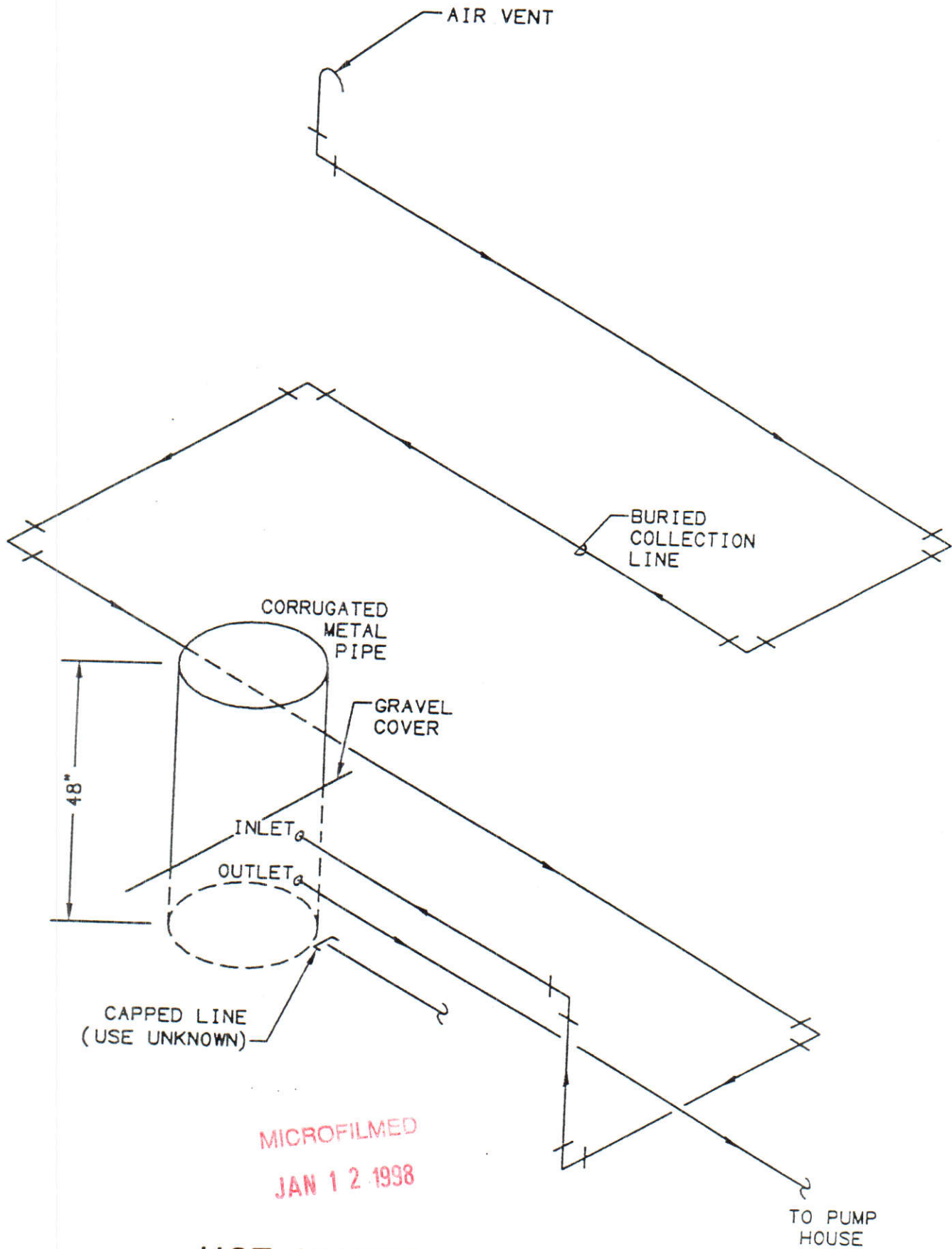
Dates

6-21 & 6-28, 1973

Forwarded to  
claimant by

Date

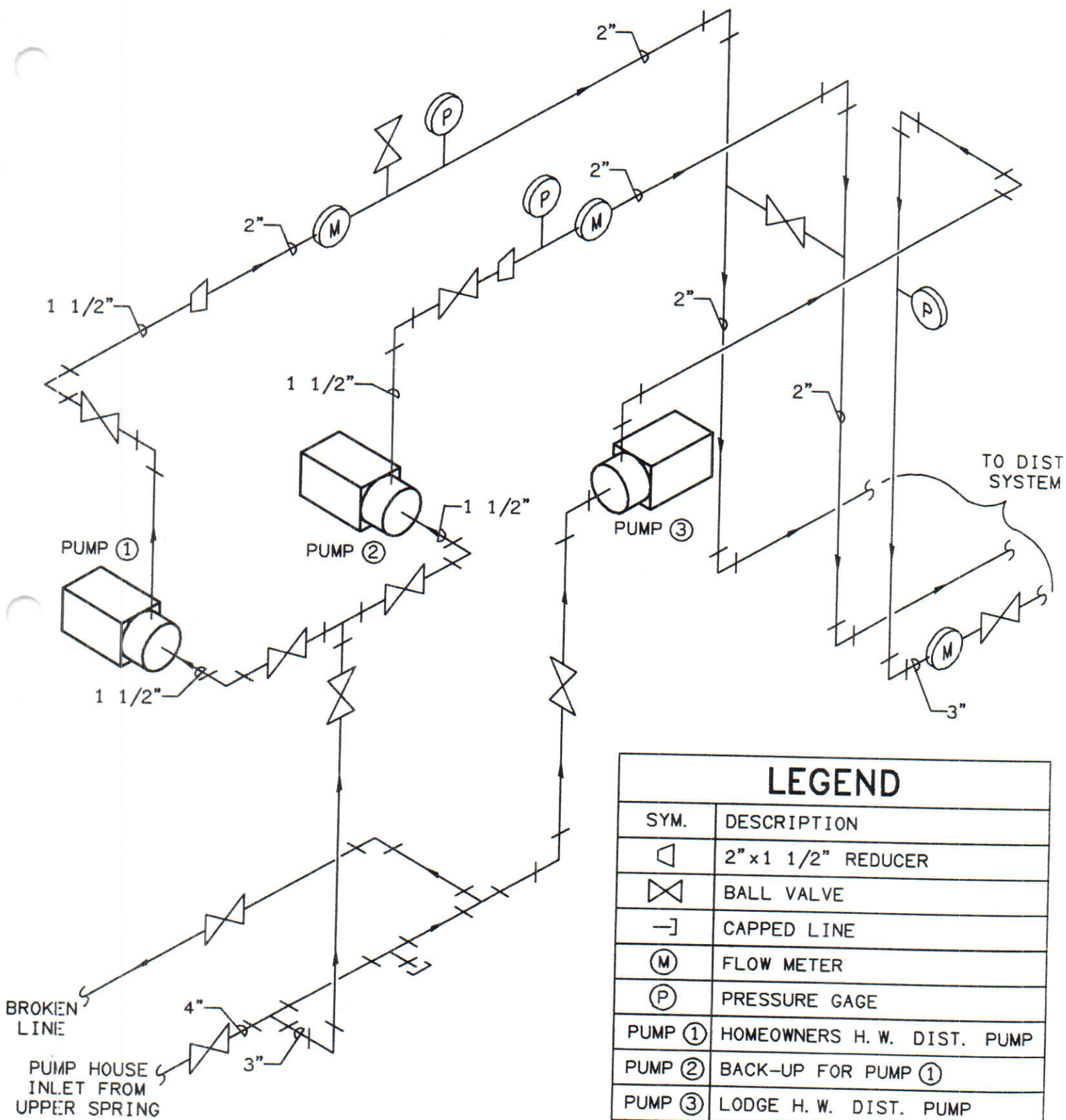
SEP 30 1988



MICROFILMED  
JAN 12 1998

# HOT WATER COLLECTION SYSTEM AT UPPER SPRING

NTS  
MEASURED FLOW - 114 GPM



MICROFILMED

JAN 12 1998

# UPPER SPRING PUMP HOUSE SYSTEM

NTS

CORRUGATED  
METAL  
PIPE

PIPE INLET

BUBBLER  
INSIDE  
POOL

BUBBLER  
INSIDE  
POOL

6" BUTTERFLY VALVE  
DISCHARGE TO  
GROUSE CREEK

POOL  
RECIRC.  
LINE

DIST. SYSTEM  
TO CABINS

PUMP

# HOT WATER COLLECTION SYSTEM AT LOWER SPRING

NTS  
MEASURED FLOW - 316 GPM

MICROFILMED  
JAN 12 1998

State of Idaho  
Department of Water Resources

# WATER RIGHT LICENSE

WATER RIGHT NO. 63-10560

Priority: November 18, 1987

Maximum Diversion Rate:

0.96 CFS

Maximum Diversion Volume:

694.0 AF

This is to certify, that PARADISE HOMEOWNERS ASSN INC

HC 87 BOX 410

MOUNTAIN HOME ID 83647

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 18, 1987; and has submitted Proof of Beneficial Use on July 26, 1988. An examination indicates that the works have a diversion capacity of 0.960 cfs of water from:

SPRINGS

tributary to GROUSE CREEK

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> |
|-----------------------|----------------------|--------------------------|----------------------|
| HEATING               | 01/01 to 12/31       | 0.64 CFS                 | 152.0 AF             |
| DOMESTIC              | 01/01 to 12/31       | 0.05 CFS                 | 1.0 AF               |
| RECREATION            | 01/01 to 12/31       | 0.96 CFS                 | 694.0 AF             |
|                       | Totals               | 0.96 CFS                 | 694.0 AF             |

LOCATION OF POINT(S) OF DIVERSION:

SWSWNE , Sec. 33, Township 03N, Range 10E  
Lot 4 (NESENW), Sec. 33, Township 03N, Range 10E  
ELMORE County

PLACE OF USE: HEATING

TWN RGE SEC

03N 10E 33

NWNE

SWNE

Lot 1 (NENW)

Lot 4 (SENW)

PLACE OF USE: DOMESTIC

TWN RGE SEC

03N 10E 33

Lot 4 (SENW)

PLACE OF USE:

RECREATION, same as DOMESTIC use

MICROFILMED

CONDITIONS OF APPROVAL AND REMARKS

JAN 12 1988

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.

State of Idaho  
Department of Water Resources

## WATER RIGHT LICENSE

WATER RIGHT NO. 63-10560

### CONDITIONS OF APPROVAL AND REMARKS

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. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.
6. The Director retains jurisdiction to require the installation of a totalizing measuring device of a type approved by the Department.
7. Heating use is for a lodge, a shop, 11 cabins and 43 homes known as Lots 1-35 and 39-46, Willis Carrie's Paradise Subdivision.
8. Domestic use is for a lodge.
9. Recreation use is for a swimming pool.

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 31<sup>ST</sup>  
day of DECEMBER, 1997.

  
Acting for KARL J. DREHER, Director

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF PERMIT )  
NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNERS )  
ASSN., INC. )  
\_\_\_\_\_ )

**ORDER GRANTING PETITION  
FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the preliminary order amending Water Right License No. 63-10560, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On July 14, 1997, the Department issued a preliminary order amending Water Right License No. 63-10560 (order).
2. On July 25, 1997, the Department received a timely petition for reconsideration of the order from the right holder, Paradise Homeowners Assn., Inc. The reason for the petition for reconsideration is to allow the right holder additional time to gather data to be used to evaluate the amended license.

CONCLUSIONS OF LAW

1. Section 67-5243(3), *Idaho Code*, provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. The Department should grant the petition for reconsideration of the order pursuant to Section 67-5243(3), *Idaho Code*, for the purpose of allowing the right holder additional time to evaluate the amended license.

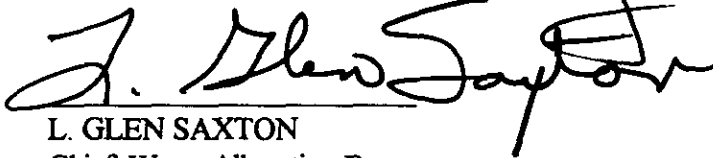
MICROFILMED  
JAN 12 1998

ORDER

**IT IS HEREBY ORDERED** that the petition for reconsideration of the preliminary order amending Water Right License No. 63-10560 is **GRANTED** pursuant to Section 67-5243(3), *Idaho Code*.

**IT IS FURTHER ORDERED** that the petitioners shall submit any additional information to be considered by the Department on or before **September 25, 1997**. If the petitioners do not timely submit the information to the Department, the preliminary order issued on July 14, 1997, shall be in full force and effect.

Dated this 31<sup>st</sup> day of July, 1997.



L. GLEN SAXTON  
Chief, Water Allocation Bureau

MICROFILMED  
JAN 12 1998

State of Idaho  
Department of Water Resources

AMENDED

# WATER RIGHT LICENSE

AMENDED

WATER RIGHT NO. 63-10560

Priority: November 18, 1987

Maximum Diversion Rate:

0.64 CFS

Maximum Diversion Volume:

140.3 AF

This is to certify, that PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410

MOUNTAIN HOME ID 83647 has complied with the terms and conditions  
of the permit, issued pursuant to Application for Permit dated November 18, 1987; and  
has submitted Proof of Beneficial Use on July 26, 1988. An examination indicates  
that the works have a diversion capacity of 140.3 AF of water from:

SPRINGS

tributary to GROUSE CREEK

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> |
|-----------------------|----------------------|--------------------------|----------------------|
| HEATING               | 01/01 to 12/31       | 0.43 CFS                 | 76.8 AF              |
| DOMESTIC              | 01/01 to 12/31       | 0.05 CFS                 | 1.0 AF               |
| RECREATION            | 01/01 to 12/31       | 0.35 CFS                 | 62.5 AF              |
|                       | Totals               | 0.64 CFS                 | 140.3 AF.            |

LOCATION OF POINT(S) OF DIVERSION:

SWSWNE, Sec. 33, Township 03N, Range 10E  
Lot 4 (NESENW), Sec. 33, Township 03N, Range 10E  
ELMORE County

PLACE OF USE: HEATING

TWN RGE SEC

03N 10E 33

NWNE

SWNE

Lot 1 (NENW)

Lot 4 (SENW)

PLACE OF USE: DOMESTIC

TWN RGE SEC

03N 10E 33

Lot 4 (SENW)

PLACE OF USE: RECREATION

TWN RGE SEC

03N 10E 33

Lot 4 (SENW)

MICROFILMED

CONDITIONS OF APPROVAL AND REMARKS

JAN 12 1998

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.

State of Idaho  
Department of Water Resources

AMENDED

**WATER RIGHT LICENSE**

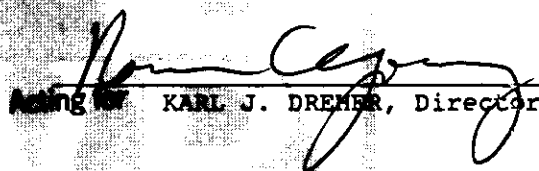
AMENDED

WATER RIGHT NO. 63-10560

CONDITIONS OF APPROVAL AND REMARKS

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 must be made within the limits of Section 42-222, Idaho Code, and the applicable Idaho law.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.
6. The Director retains jurisdiction of this right to require the installation of a totalizing measuring device of a type approved by the Department.
7. Heating use is for a lodge, a shop, 11 cabins and 43 homes known as Lots 1-35 and 36-46, Willis Carrie's Paradise Subdivision.
8. Domestic use is for a lodge.
9. Recreation use is for a swimming pool.

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 14TH  
day of July, 1977.

  
\_\_\_\_\_  
KARL J. DREHER, Director

MICROFILMED

JAN 12 1998

State of Idaho  
Department of Water Resources

# WATER RIGHT LICENSE

WATER RIGHT NO. 63-10560

Priority: November 18, 1987

Maximum Diversion Rate: 0.64 CFS

Maximum Diversion Volume: 115.3 AF

This is to certify, that PARADISE HOMEOWNERS ASSN

HC 97 BOX 410

MOUNTAIN HOME ID 83647

has complied with the terms and conditions

of the permit, issued pursuant to Application for Permit dated November 18, 1987; and has submitted Proof of Beneficial Use on July 26, 1988. An examination indicates that the works have a diversion capacity of 0.640 cfs of water from:

SPRINGS

tributary to GROUSE CREEK

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> |
|-----------------------|----------------------|--------------------------|----------------------|
| HEATING               | 01/01 to 12/31       | 0.29 CFS                 | 51.8 AF              |
| DOMESTIC              | 01/01 to 12/31       | 0.05 CFS                 | 1.0 AF               |
| RECREATION            | 01/01 to 12/31       | 0.35 CFS                 | 62.5 AF              |
|                       | Totals               | 0.64 CFS                 | 115.3 AF             |

LOCATION OF POINT(S) OF DIVERSION:

SWSWNE, Sec. 33, Township 03N, Range 10E

Lot 4(NESW), Sec. 33, Township 03N, Range 10E

ELMORE County

PLACE OF USE: HEATING

TWN RGE SEC

03N 10E 33

NWNE

SWNE

Lot 1(NENW)

Lot 4(SENW)

PLACE OF USE: DOMESTIC

TWN RGE SEC

03N 10E 33

Lot 4(SENW)

PLACE OF USE: RECREATION

TWN RGE SEC

03N 10E 33

Lot 4(SENW)

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.

115-10560  
FEB 23 1996

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

WATER RIGHT NO. 63-10560

CONDITIONS OF APPROVAL AND REMARKS

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 must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.
6. The Director retains jurisdiction of this right to require the installation of a totalizing measuring device of a type approved by the Department.
7. Heating use is for a lodge, a shop and 31 cabins.
8. Domestic use is for a lodge.
9. Recreation use is for a swimming pool.

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 31<sup>st</sup>  
day of JANUARY, 1996.

Acting for

KARL J. DREHER, Director

FEB 23 1996

State of Idaho  
Department of Water Resources

**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
**WATER RIGHT NO. 63-10560**

Date of Priority: November 18, 1987      Maximum Diversion Rate: 0.64 CFS  
Maximum Diversion Volume: 115.3 AF

Comes now      PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647      and represents to the Director of the  
Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the  
State of Idaho No. 63-10560, and requests that the permit be changed as follows:

Source: SPRINGS      tributary to GROUSE CREEK

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| HEATING               | 01/01 to 12/31       | 0.29 CFS                 | 51.8 AF              |
| DOMESTIC              | 01/01 to 12/31       | 0.05 CFS                 | 1.0 AF               |
| RECREATION            | 01/01 to 12/31       | 0.35 CFS                 | 62.5 AF              |
|                       | Totals               | 0.64 CFS                 | 115.3 AF             |

LOCATION OF POINT(S) OF DIVERSION:      SWSWNE , Sec. 33, Township 03N, Range 10E  
Lot 4(NESNW), Sec. 33, Township 03N, Range 10E  
ELMORE County

PLACE OF USE: HEATING  
TWN RGE SEC  
03N 10E 33      NWNE      SWNE      Lot 1(NENW)  
Lot 4(SENW)

PLACE OF USE: DOMESTIC  
TWN RGE SEC  
03N 10E 33      Lot 4(SENW)

PLACE OF USE: RECREATION  
TWN RGE SEC  
03N 10E 33      Lot 4(SENW)

FEB 23 1996

State of Idaho  
Department of Water Resources

**APPLICATION FOR AMENDMENT**

(For Licensing Purposes)

**WATER RIGHT NO. 63-10560**

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at 2:00 PM, this 4 day of August, 1994.

Earl B. Jackson  
(Signature)  
President PHOA

FEB 23 1996

State of Idaho  
Department of Water Resources

**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
**WATER RIGHT NO. 63-10560**

\*\*\*\*\*

FOR DEPARTMENT USE ONLY  
Preliminary check by B Fee =  $\frac{10^{\infty}}{20^{\infty}}$  Received by DT #C031007 Date 8-9-94  
20<sup>00</sup> UR W019442 6-26-95  
Raby C033988 11/28/95

**ACTION OF THE DEPARTMENT OF WATER RESOURCES**

I, R. Keith Higginson, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 63-10560 with the following;

**CONDITIONS/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 must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.
6. The Director retains jurisdiction of this right to require the installation of a totalizing measuring device of a type approved by the Department.
7. Heating use is for a lodge, a shop and 40 cabins.
8. Domestic use is for a lodge.
9. Recreation use is for a swimming pool.

Witness my hand this 31<sup>ST</sup> day of JANUARY, 1996.

Acting for R. Keith Higginson, Director

FEB 23 1996

RECEIVED  
JUL 30 1988

RECEIVED

STATE OF IDAHO

AUG - 1 1988

DEPARTMENT OF WATER RESOURCES

Department of Water Resources

For Office Use Only  
Fee Received \$125.00  
Date 8/02/88  
Receipt # C002113  
Receipt by Amy  
Reviewed by AJ  
Sent to region 8/1-8

Department of Water Resources  
Western Regional Office

## PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 63-10560

Name(s) of Permit Holder: PARADISE HOMEOWNERS ASSOCIATION, INC.

Post Office Address: HP 87 BOX 42

MOUNTAIN HOME, IDAHO 83647 Telephone No. 208-653-2239

Source of Water: SPRING WHICH IS A TRIBUTARY TO GROUSE CREEK

Extent of Use:

Domestic SEE APPLICATION FOR PERMIT FOR SPECIFIC USE (number of households) Stockwater 2 HOT BATHS (number and type of stock)

Irrigation \_\_\_\_\_ (acres) Other/Remark RECREATIONAL - SWIMMING & HEATING - SPACE HEAT

COPY OF APPLICATION FOR PERMIT ATTACHED

Total rate and/or volume for which proof is submitted 1.29 cfs \_\_\_\_\_ acre-feet

Show the date water was first diverted and beneficially used under this permit: FALL OF 1980 FOR FULL DEVELOPMENT OF EXISTING SYSTEM IN PLACE

Measuring Device: Required? ☒ Yes ☐ No SEE LETTER Fee enclosed \$ 125.00 ATTACHED (See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☐ No  
Installed? ☐ Yes ☐ No

Person to contact to accompany the Department representative during the field examination:

HAROLD L. JOHNSON 208-734-6054  
(Name) (Telephone Number)

RT. 2 P.O. Box 701 ELER, IDAHO 83328  
(Address)

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.

Harold L. Johnson SEP 30 1988  
July 22, 1988 for Paradise Homeowners Association, Inc.  
Date Signature of Permit Holder (and title, if appropriate)

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant Paradise Homeowners Association, Inc. Phone 208-653-2239  
HC 87, Box 42  
Post office address c/o Rocky Bar Stage, Mountain Home, Idaho 83647

2. Source of water supply Spring which is a tributary of Grouse Creek

3. Location of point of diversion is NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 33 Township 3N Range 10E B.M. Elmore County; additional  
points of diversion if any: None (This point is approximately 40' from Grouse Creek.)

4. Water will be used for the following purposes:  
Recreational - Swimming Pool  
Amount .35cfs for and Hot Baths purposes from Jan. 1 to Dec. 31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount .05cfs for Domestic purposes from Jan. 1 to Dec. 31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount .89cfs for Heating - Space purposes from Jan. 1 to Dec. 31 (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) 1.29cfs and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Geothermal warm spring water (at 140°F) is collected in a 30" diameter vertical pipe. Three 4" P.V.C. pipes are used at the point of diversion to distribute the water. One 4" pipe runs under ground approximately 1,100' and has a fall of approximately 20'. The 4" pipe enters the bottom of the swimming pool approximately 15' from the Northwest corner. The water is moved by gravity flow. The 2nd. & 3rd. 4" P.V.C. pipe runs partially above and under ground (See Attachment (A)6.a.)

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 N/A Geothermal Spring inches; proposed depth of well is N/A feet.

d. Is ground water with a temperature of greater than 90°F being sought? No - A natural geothermal spring is present

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

SEP 30 1988

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

- a. Hydropower; show total feet of head and proposed capacity in KW. N/A
- b. Stockwatering; list number and kind of livestock. N/A
- c. Municipal; show name of municipality. N/A
- d. Domestic; show number of households. Swimming area dressing rooms for showers and toilets.  
(See Attachment A-8,d.)
- e. Other; describe fully. Recreation  
and  
Heating

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 |        |
| 3N  | 10E   | 33   |     |     |     |     | L.1<br>D |     |     | L.4<br>D |     |     |     |     |     |     |     |     |        |
| 3N  | 10E   | 33   |     |     |     |     | L.1<br>G |     |     | L.4<br>R |     |     |     |     |     |     |     |     |        |
| 3N  | 10E   | 33   |     | G   | G   |     |          |     |     | L.4<br>G |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |          |     |     |          |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |          |     |     |          |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |          |     |     |          |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |          |     |     |          |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |          |     |     |          |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |          |     |     |          |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |          |     |     |          |     |     |     |     |     |     |     |     |        |

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

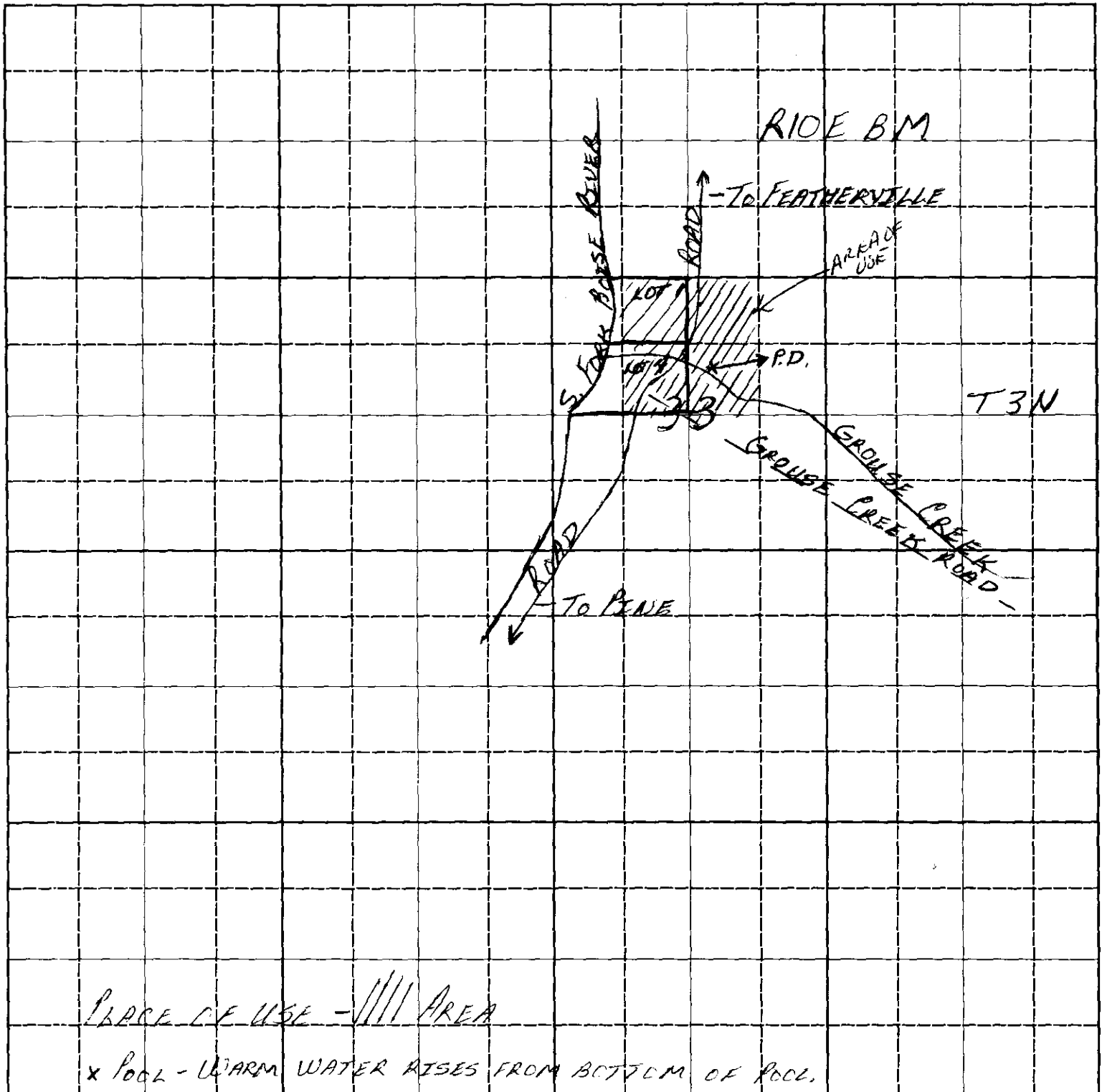
10. Describe any other water rights used for the same purposes as described above. See Attachment (A) 10.

11. a. Who owns the property at the point of diversion? Paradise Inn, Inc.
- 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. See Attachment (A) 11.c.

12. Remarks: By submitting this "Application for Permit" for the Paradise Homeowners Association, Inc., I (Harold L. Johnson) am personally making no effort to obtain or secure any rights over and above those flowing to me by being a member of the Paradise Homeowners Association, Inc.

SEP 30 1988

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal  $\frac{1}{2}$  mile. APPROXIMATE

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

SEP 30 1988

Harold L. Johnson  
(VICE - PRES. (Applicant))  
PARADISE HOMEOWNERS, ASSOC., INC.

Received by nl M. Baldwin Date 12-1-87 Time 4:00 pm Proposed priority 11/18/87  
Date 11/18/87 Time 8:01 a.m. Preliminary check by [Signature]  
Fee \$ 65<sup>00</sup> Received by M. Baldwin # 44354 Date 11/18/87  
Publication prepared by jp Date 12/30/87 Published in Mountain Home News  
1/6 & 1/13/87  
Publication approved hp Date 1/21/88

### 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. 63-10560, and said application is hereby APPROVED.

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 March 1, 19 89.

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:

Use of water for domestic purposes under this permit shall be limited to in-house use and watering of household stock.

A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Use of water under this permit is subject to control by the watermaster of State Water District No. 63, Boise River.

Witness my hand this 29th day of February, 1988.

[Signature]  
Director



SEP 30 1988

Attachment (A)

- 6.a. for approximately 90' to a pump and distribution structure ( of block and concrete construction). From the distribution structure, approximately one half the warm water is distributed via gravity flow thru various smaller size P.V.C. pipe buried at depths of 1' to 3' to individual homeowner lots, the lodge, shop, rental units, dressing rooms, laundry facilities, and the managers quarters. The balance of the warm water (approximately  $\frac{1}{2}$  the water at the distribution structure) is pumped thru P.V.C. pipe buried at a depth of 1' to 3' to individual homeowner lots where elevations do not permit gravity flow. Individual lot owners branch off the primary distribution line for use in heating their structure. It is noted that some homeowner lots and structures on the developments grounds can be serviced by either pumping or gravity flow.
- 8.d. The domestic use of the geothermal water is for bath and toilet facilities. The use is confined to Block 1 Lot 38 of the plat showing Paradise's subdivision. (Copy Attached). The original plat of the subdivision is on file with the office of the Elmore County recorder. The point of diversion is the specific point approximately 40' North of Grouse Creek. See 6.a. for additional comment and item 13 (grid map) for point of diversion.
- 8.e. Recreation - Geothermal water is used in the swimming pool that was initially developed in 1918 and has a  $1\frac{1}{2}$  acre feet capacity and is located in Block 1 Lot 38 of the plat showing the Paradise Subdivision. (Copy Attached) Two thirds of the warm water rises in the bottom of the pool and one third of the warm water rises at the point of diversion that is identified on the grid map that is section 13 of this Application for Permit. The geothermal water is also used in three large hot baths. The point of diversion is approximately 40' North of Grouse Creek.

Heating - The heating use of the geothermal water is for space heating of all buildings on the Paradise Inn, Inc. property. This includes Lots# 1 thru 35, 38 thru 53 as set forth in the plat of the Paradise Subdivision and a limited strip of unplatted property South of the Grouse Creek road and terminating at the Featherville road. Also included is a piece of property West of the Featherville road and South of Grouse Creek that is commonly known as the Wagon Town property. It is noted that Lot#38 is of common ownership by Paradise Inn, Inc. / commercial in nature; and lots #1 thru 35 and 39 thru 53 are privately owned as home sites or for home site development. The homeowners use .01 cfs and use various methods of extracting the heat from the warm water.

10. On June 11, 1973, Willis Carrie, the initial developer of the Paradise recreational development filed a Claim to a Water Right (#63-4221) with the intent of claiming a water right for Irrigation, Domestic and Heating. Due to the deficiencies in the filing of not quantifying the domestic and heating use and not identifying a point of diversion for the geothermal spring, the water right in these areas was not protected. Due to the deficiencies related to the above two uses, plus the fact that the recreational use was completely omitted; we have determined it is necessary to make a correct filing. Since many of the uses of the geothermal water have been changed and/or expanded since May 20, 1971, we can not file a "Claim to a Water Right" and, in turn,

SEP 30 1988

Attachment (A) Continued

10. Continued

submitting an "Application for Permit" to appropriate the public waters of the State of Idaho. A copy of the Junell, 1973 filing # 63-4221 is submitted for your reference and as support for past intent and the existence of a past beneficial use. The present level of beneficial use and development has been in place since the fall of 1980. The geothermal water system has not been touched ther than for minor maintenance since that date.

- 11.c. The Paradise Homeowners Association, Inc. is composed of Lot Owners in the Paradise recreational development and Paradise Inn, Inc. ( Lodge and Common Grounds ) which is owned in common by all shareholders of the recreational development. When fully developed their potentially could be 700 members of Paradise Inn, Inc. while membership in Paradise Homeowners Association, Inc. is limited to 51, the present number of Lot Owners. Each lot owner is also a shareholder in Paradise Inn, Inc.

Since Paradise Inn, Inc. is a major voting member of the Paradise Homeowners Association, Inc.; the "Application for Permit" to appropriate the public waters of the State of Idaho is intended to provide and protect on a 100% basis the same rights of Paradise Inn, Inc. as it does for the Paradise Homeowners Association, Inc.

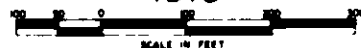
###

Note: Questions or followup concerning this "Application for Permit" can be directed to:

Harold L Johnson  
P.O. Box 701  
Filer, Idaho 83328  
208-543-6444  
208-734-6054

# PLAT SHOWING WILLIS CARRIE'S PARADISE SUBDIVISION

A PORTION OF SECTION 33, T.3N., R.10E., B.M.  
ELMORE COUNTY, IDAHO  
1979



(SEE SHEET 1)

BLOCK 1  
LOT 36

## LEGEND

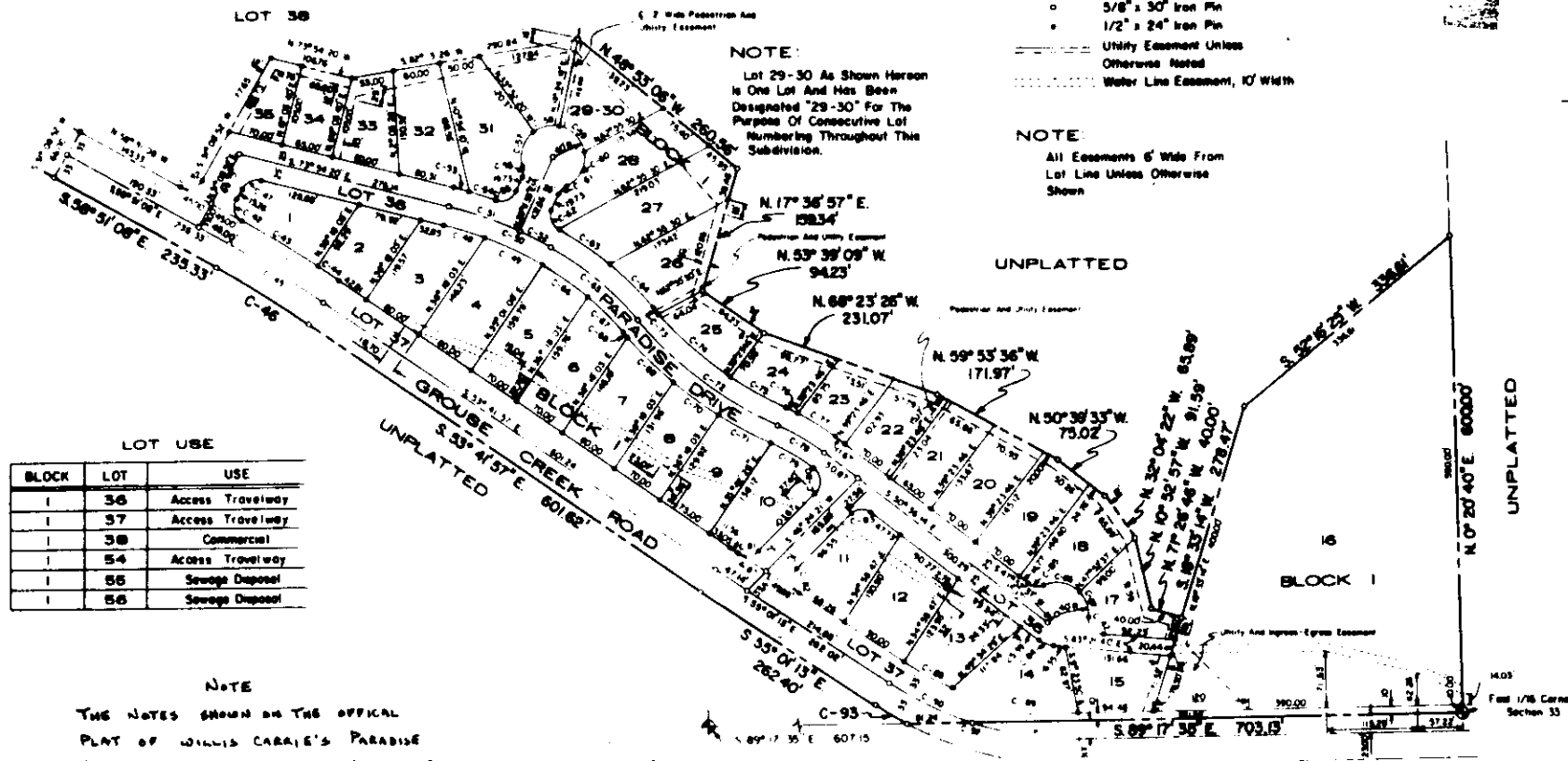
- Subdivision Limits
- ⊙ Brass Cap
- 5/8" x 30" Iron Pin
- 1/2" x 24" Iron Pin
- Utility Easement Unless Otherwise Noted
- Water Line Easement, 10' Width

## NOTE:

All Easements 5' Wide From  
Lot Line Unless Otherwise  
Shown

## NOTE:

Lot 29-30 As Shown Hereon  
is One Lot And Has Been  
Designated "29-30" For The  
Purpose Of Consecutive Lot  
Numbering Throughout This  
Subdivision.



## LOT USE

| BLOCK | LOT | USE              |
|-------|-----|------------------|
| I     | 36  | Access Travelway |
| I     | 37  | Access Travelway |
| I     | 38  | Commercial       |
| I     | 54  | Access Travelway |
| I     | 55  | Sewage Disposal  |
| I     | 56  | Sewage Disposal  |

## NOTE

THE NOTES SHOWN ON THE OFFICIAL  
PLAT OF WILLIS CARRIE'S PARADISE  
SUBDIVISION AS RECORDED IN THE OFFICE  
OF THE ELMORE COUNTY RECORDER ARE  
NOT SHOWN HEREON

*[Signature]*  
8-15-97

RECORDED

SEP 30 1988



J-U-B ENGINEERS, INC.  
Engineers, Planners  
Nampa, Idaho

DWG. NO. N771231S SHEET 3 OF 3

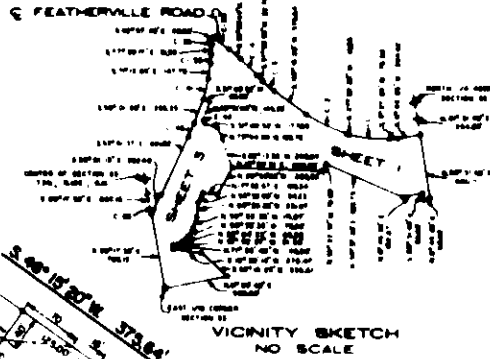
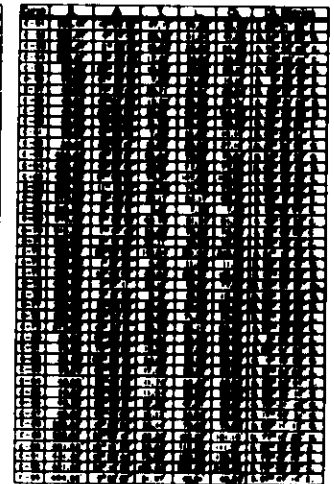
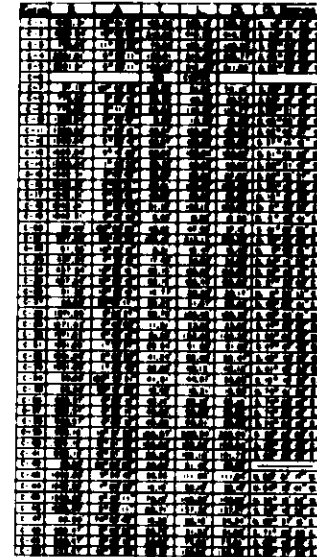
PLAT BOOK PAGE

# PLAT SHOWING WILLIS CARRIE'S PARADISE SUBDIVISION

A PORTION OF SECTION 33, T3N., R10E., BM  
ELMORE COUNTY, IDAHO  
1979



## CURVE DATA



LOT 36  
BLOCK 1

(SEE SHEET 3)

## NOTE

THE NOTES SHOWN ON THE OFFICIAL  
PLAT OF WILLIS CARRIE'S PARADISE  
SUBDIVISION AS RECORDED IN THE OFFICE  
OF THE ELMORE COUNTY RECORDER ARE  
NOT SHOWN HEREON.

8-15-80

## LOT USE

| BLOCK | LOT | USE             |
|-------|-----|-----------------|
| 1     | 36  | Access Driveway |
| 1     | 37  | Access Driveway |
| 1     | 38  | Commercial      |
| 1     | 39  | Access Driveway |
| 1     | 40  | Access Driveway |
| 1     | 41  | Access Driveway |
| 1     | 42  | Access Driveway |
| 1     | 43  | Access Driveway |
| 1     | 44  | Access Driveway |
| 1     | 45  | Access Driveway |
| 1     | 46  | Access Driveway |
| 1     | 47  | Access Driveway |
| 1     | 48  | Access Driveway |
| 1     | 49  | Access Driveway |
| 1     | 50  | Access Driveway |
| 1     | 51  | Access Driveway |
| 1     | 52  | Access Driveway |
| 1     | 53  | Access Driveway |
| 1     | 54  | Access Driveway |
| 1     | 55  | Access Driveway |
| 1     | 56  | Access Driveway |

## LEGEND

- Subdivision Limits
- Brown Cap
- 5/8" x 30" Iron Pin
- 1/2" x 20" Iron Pin
- Utility Easement Unless  
Otherwise Noted

## NOTE:

All Easements 6' From Lot Line  
Unless Otherwise Shown.

J-U-B ENGINEERS, INC.  
Engineers, Planners  
Nampa, Idaho

DWG. NO. N772315 SHEET 1 OF 3

PLAT BOOK PAGE

SEP 30 1980

# TRINITY

*The World's Deepest Known Source of Natural Spring Water*

MARK JOHNSON  
*Co-Founder & CEO*  
Trinity Springs Ltd.  
P.O. Box 1630  
200 South Main Street  
Ketchum, Idaho 83340  
cell: 208.720.1581  
phone: 208.726.7535  
fax: 208.726.8015  
email: [mjohnson@trinitysprings.com](mailto:mjohnson@trinitysprings.com)  
website: [www.trinitysprings.com](http://www.trinitysprings.com)

---

# TRINITY

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email: [mjohnson@trinitysprings.com](mailto:mjohnson@trinitysprings.com)

website: [www.trinitysprings.com](http://www.trinitysprings.com)

---

Young, Norm

---

From: Peppersack, Jeff  
Sent: Friday, December 08, 2000 3:14 PM  
To: Young, Norm  
Subject: Paradise Homeowners Assoc.

Norm,

I got a call from David Smith, a board member of Paradise Homeowners Assoc. He was asking about some discussion between Paradise and/or Trinity and IDWR. There seems to be an understanding by Paradise that if they don't build a new hot springs pool within 5 years, they will lose the recreation portion of their water right. You may remember that the right included recreation for use in a couple of pools owned by Trinity. He understood that this came from some discussion with IDWR. I told him I was not aware of any discussions regarding forfeiture, only ownership issues. I also told him that you had met with either Paradise or Trinity regarding the ownership issues. He plans to give you a call probably on Monday to discuss.

Jeff

12/13/00

David Smith called (435-863-8349) inquiring if I knew where the concept of having to build a new pool by next year to avoid forfeiting recreational use on the license. I assured him that I did not know. The pool @ the Lodge appears to be the pool licensed. A new pool would require a new permit to cover the additional use or a transfer to change the place of use on the existing license.

NY

# TRINITY

June 19, 2000

RECEIVED

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Norman Young, Administrator  
Water Management Division

JUN 21 2000

Department of Water Resources

RE: Trinity Springs Ltd.'s Application to Split Ownership of Water Right No. 63-10560; Request for Reconsideration of Denial of Application

Dear Mr. Young:

## INTRODUCTION:

Trinity Springs Ltd. ("Trinity") is responding to your recent letter concerning our earlier application to split ownership of Water Right No. 63-10560. We appreciate the IDWR's ("the Department") decision to review whether private hot tubs installed by individual owners of the Paradise Subdivision are appropriate, particularly given the Department's consistent practice of using a statewide formula based on square footage of buildings, insulation values, geographical location and number of heating days to calculate the precise volumes of geothermal waters that may be appropriated for "heating" purposes in Idaho.

Trinity's opinion is that the Department's regulations presently make no provision for appropriation of state geothermal waters for private hot tubs as a beneficial, non-consumptive heating use. For the Department to permit unfettered consumption of geothermal waters to be used in hot tubs as a "heating" use would essentially defeat the purpose of the Department's scientific formula, which intention is to calculate and control reasonable appropriations of geothermal water volumes.

This is not to argue that geothermal waters cannot be used for private hot tubs; hot tubs can be permitted as a domestic use. See IDAPA 37.03.08.010.15. However, any new domestic use permit for residential hot tubs would be junior to the present license and must necessarily insure that private purpose diversions not interfere with the senior recreational uses that occur on Lot 38 of the subdivision, which is the private property where Trinity's lodge is sited. Private individuals must not be permitted to divert

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F 208.653.2391  
E tsplant@micron.net

geothermal waters from the Association's heating system for their individual homes, as such diversions would deplete the pristine waters returning to Lot 38 from the closed loop heating system. Returning less water - and cooler water - to Lot 38 will assuredly injure the recreational use value of the property and violate Trinity's deeded right to quiet enjoyment of its property. Accordingly, new permitted diversions for individual use, if permitted, might well have to occur downstream from Lot 38.

These facts viewed in context with Trinity's increasing concerns over present non-permitted diversions occurring, raised the issue of partitioning the ownership of the existing water right. Thus, late in 1999 Trinity wrote the Department with the intention of correcting and splitting the ownership pursuant to beneficial and actual uses pertaining to the domestic and recreational portions of the appropriated waters approved by the Department in 1987.

### ARGUMENT

Trinity's pending reconsideration request for splitting the Water Right ownership for recreational and domestic use relies, in part, on the Department's previous documentation, as follows:

- A. In 1987, the Department conditioned License No. 63-10560 and stated in Condition # 2, that the water right is appurtenant to the place of use. The fact is that all waters (100%) appropriated for recreational and domestic uses under permit No. 63-10560 occur on and are appurtenant to Lot 38, which property has never been owned by the Paradise Homeowners Association, Inc.;
- B. IDWR's Field Exam Report dated April 30, 1991, confirms that the domestic and recreational uses are on Lot 38 and, separately, that the heating system is "based on the number of units and 180 days;"
- C. IDWR wrote Trinity on September 19, 1991, and stated "licenses are appurtenant to the property where water is used (the place of use)," and, further, correctly stated that "the portion of each right attached to Lot 38 depends on the beneficial use described in the right and the percent of that use found on Lot 38 when compared to the remainder of the place of use."

In that light, Trinity believes the Department must reconsider and approve the application for splitting the ownership of the rights. Surprisingly, the Department's letter dated June 13, 2000 completely ignores the Department's earlier field studies and statements, which Trinity has cited since the inception of its effort to correct the Department's administrative error. While the Department's original error is understandable, we are puzzled as to why the Department refuses to correct the named owner of the water right. Merely splitting the ownership between the Association and our

company would bring the permit into compliance with Idaho law and the Department's promulgated regulations. See IDAPA 37.03.08.050.01 (Rule 50) and IDAPA 37.03.08.045 (Rule 45).

The Letter of Denial states that you "concur with the Department's prior determination." Apparently, the determination referred to is stated in the Department's letter dated March 22, 2000, as that is the only "determination" Trinity has received. In that letter, the Department stated it will not process the change of ownership application because "it appears that the intent of the MOU [Memorandum of Understanding] is to maintain a single ownership for the association of users." This arbitrary denial resulted in our earlier request that the application requesting an ownership split receive further consideration.

Importantly, the MOU signed in 1996 is not material to the issue of a change of ownership and, accordingly, is not a reasonable explanation for denying the application. While it is true an MOU exists, it is inappropriate for the Department to make a determination of ownership of a water right by "interpreting the intent" of a private agreement between the Association and our company that occurred several years after the license was issued. Diversions of geothermal water from the Association's heating system for private hot tub users are not mentioned anywhere within the four corners of the agreement. Moreover, it is unreasonable to assume Trinity would have "intentionally" entered an agreement that would be detrimental to the delivery of geothermal waters to Lot 38.

By denying our application, the Department now compounds its original administrative mistake by relying on a private MOU for its "determination." Such reliance is not only misplaced, but under the present facts places the Department squarely inapposite to its own regulations and the laws of this state. Again, the application merely requests the Association's heating uses rights be separated from Trinity's recreational and domestic use of water on its own private property. Please note the initial letter submitted by Trinity in support of its application distinguishes the uses, while stating clearly that the company does not wish to interfere with the reasonable heating uses of permit No. 63-10560.

(In truth, Trinity believes the Association has breached the MOU. Under pretenses of the Association, several individual members have admittedly instituted new, non-permitted uses by diverting geothermal waters intended for space heating of homes to their own private hot tubs. Under the MOU, private tubs constitute a "new use" and violate the plain language of the MOU. Our opinion is such conduct injures Trinity's quiet enjoyment of its property and values related to recreational use. Notwithstanding, MOU violations are peripheral to the issue before the Department concerning the ownership split. The IDWR is not the appropriate forum for resolution of alleged MOU breaches. Nevertheless, a detailed explanation of the MOU's provisions was provided to the Department in our letter of April 21, 2000.)

Accordingly, Trinity herewith respectfully requests that the Department reconsider its recent decision to "concur with the Department's prior determination." The proper course is for the Department to split ownership of the right. In the alternative, should the Department again deny our application, Trinity herewith requests that the denial be issued in a formal manner addressing the legal reasons for the denial.

To date, Trinity has taken every precaution available to remedy the present *status quo* in the least intrusive manner to both the Association and the Department. Since 1971, the exclusive way to acquire a water right in Idaho has been by the permit method. A junior appropriator is entitled to divert water only when the rights of previous appropriators have been satisfied. Nahus v. Hulet, 114 Idaho 23, 752 P.2d 625(1988), citing Beecher v. Cassia Creek Irrigators Co., 66 Idaho 1, 154 P.2d 507 (1944); Neilson v. Parker, 19 Idaho 725, 115 P.2d 488 (1911).

Prior to the permitting method, appropriating state waters is recognized as a Constitutional right by beneficial users, commonly incorporating doctrines of beneficial use and of "first in time; first in right." *Id.* Presently, ample records, including personal affidavits, are on file at the Department documenting that the owners of what is now Lot 38 used the geothermal waters of Grouse Creek for recreational and domestic purposes long before the permitting method was implemented in Idaho. These Constitutional uses have never been interrupted.

In 1987, when the Department issued Water Right No. 63-10560 to the Association for purposes of circulating the geothermal waters for space heating of homes on nearby properties, the owners of Lot 38 did not waive their Constitutional claims to the full benefits of the geothermal springs for their own private purposes. Additionally, and as pointed out previously, the permit issued explicitly states (and limits by conditions) that the recreational and domestic uses of the geothermal waters are only for Lot 38.

Relying on Idaho laws and the Department's regulations, Trinity will litigate its senior water rights claim, if necessary.

While you correctly point out that Idaho Code § 42-248 does not provide authority for the Department to change the legal ownership of a water right, nothing in the Idaho Code prevents the Department from correcting errors in a previously issued permit. More reasonably, equity demands the converse, as it is universally presumed in administrative law that an agency empowered to license possesses sufficient corresponding power to correct its error(s).

Trinity has never relied on I.C. § 42-468 to buttress its request to partition ownership. For the Department to explain its denial of our application by referring to I.C. § 42-248 is, borrowing the Department's own language, "simply wrong."

In support, we point to Section 6 of the Department's Notice of Change of Water Right Ownership Form submitted in support of our application, which form explicitly

states in two separate sentences that the Department is empowered "to split the water(s) rights."

Our review of our correspondence to the Department shows Trinity previously cited I.C. 842-201, *et. seq.* Sub-paragraph(2) of that statute explicitly states that no person shall use the waters of the state of Idaho except in accordance with the laws of the State of Idaho. Unarguably, if a licensee holds a license whereby beneficial use cannot be established, such license would not be in accordance with Idaho law.

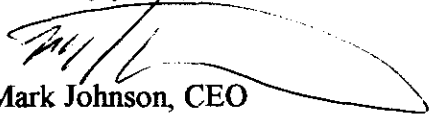
The Department's own field examinations substantiate the Association cannot meet a beneficial use burden of proof for either domestic or recreational use under permit No. 63-10560. That is reason enough to approve Trinity's application and split the ownership rights.

### CONCLUSION

As argued herein and earlier, Trinity believes the Department has a duty to insure such an appropriate correction is made to Water Right No. 63-10560 pursuant to submitting its "Notice of Change of Water Right Ownership" form on December 20, 1999.

If a more appropriate procedure is available to implement the requested ownership split and bring the license into compliance with Idaho laws and regulations, Trinity respectfully requests the Department advise us of the proper procedure. Unless otherwise directed, we repeat our request that our pending application for an ownership change be reconsidered and approved by the Department at its earliest opportunity.

Sincerely yours,



Mark Johnson, CEO

cc: Randy Flowers, President  
Paradise Homeowner's Association, Inc.  
10071 Martindale Drive  
Boise, ID 83709

**MEMORANDUM**

TO: RANDY FOWERS  
JIM SPECK  
B.C. YOUNG  
✓ NORMAN YOUNG

FROM: MARK JOHNSON

DATE: JULY 19, 2000

**RECEIVED**

JUL 20 2000

Department of Water Resources

RE: PROPOSED AGENDA CONCERNING WATER LICENSE NO. 63-10560

This memorandum concerns the agenda for discussion at the meeting scheduled for 11:00 A.M. on July 25<sup>th</sup> at IDWR Boise.

Background

Last December, Trinity Springs Ltd. ("Trinity") applied to the IDWR to split ownership of License No. 63-10560 between Trinity and the Paradise Home Owner's Association ("PHOA"). The requested change intended to split the heating portion of the license from the recreation and domestic portions. Under the beneficial use doctrine, Trinity requested that recreation and domestic uses of the geothermal waters subject to the license, all of which occur on its property, be permitted solely in the name of Trinity.

No change was requested to the heating portion of the existing license.

PHOA notified IDWR that it opposed Trinity's request on grounds that splitting the ownership would diminish the value of the PHOA. See enclosed letter from Randy Fowers to IDWR, dated March 14, 2000.

The IDWR denied Trinity's application, citing the "intent" of the existing Memorandum of Understanding between Trinity and the Association.

Discussion

Trinity proposes the following issues be discussed at the meeting:

- A. Resolution of Trinity's existing application for splitting the ownership of License No. 63-10560.
- B. Consumption of geothermal waters by Association members and others diverting geothermal water from the community heating system into private hot tubs installed in private homes.
- C. The Memorandum of Understanding, as probative to the issues.

Please find enclosed a reading file of recent correspondence between the parties.

Enclosures  
License No. 63-10560

December 21, 1999

TRINITY

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Mr. Shelly Keen  
Water Rights Supervisor

RE: Water Right License 63-10560; Request for Change in Ownership

Dear Mr. Keen:

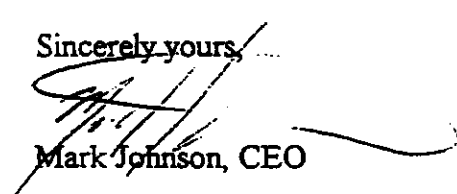
Please find enclosed a completed form of the State of Idaho Dept. of Water Resources requesting a change in ownership as reflected currently in Water Right License 63-10560. The intention of the change is to correct an existing error in the stated ownership of the right. The request is not intended to increase any appropriation of state waters, but is intended to correct ownership pursuant to beneficial use and actual use by Trinity Springs Ltd. ("Trinity"), an Idaho corporation.

In December, 1997, the department issued the license to Paradise Homeowners Assn. ("PHOA") Inc, HC 87, Box 410, Mountain Home, Idaho for the use of geothermal waters for heating, domestic and recreational purposes. In fact, the beneficial uses of the waters for the domestic and recreational uses under the cited permit are uses of Trinity and not those of the PHOA. Accordingly, Trinity is attempting to correct the error and herein requests that the company be issued a license (with the same priority) for that portion of 63-10560 pertaining to domestic and recreational use of the appropriated waters approved previously by the department.

Trinity, as a member of PHOA, believes those waters appropriated and used for non-consumptive space heating pursuant to 63-10560 should not be disturbed.

I regret any inconvenience to the department in correcting this error and if I may answer any questions pertaining to the correction requested, please call me.

Sincerely yours,

  
Mark Johnson, CEO

Enclosures

cc: Randy Flowers, President  
Paradise Homeowners Assn., Inc.  
10071 Martindale Drive  
Boise, Idaho 83709

CORPORATE OFFICE  
P.O. Box 1635  
222 South Main Street  
Ketchum, Idaho 83340  
T 208.726.7734  
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E tsprings@micron.net

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HC 87, Box 390  
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Paradise, Idaho 83647  
T 208.653.2363  
F 208.653.2391  
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PARADISE RESORT  
HC 87, Box 400  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2434  
F 208.653.2391  
E tsplant@micron.net

STATE OF IDAHO  
IDAHO DEPARTMENT OF WATER RESOURCES  
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.  
Incomplete forms will be returned.

1. Water Right Number(s) #63-10560  
Adjudication Claim Number(s) \_\_\_\_\_

2. The following REQUIRED information must be submitted with this form.

- A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.  
AND  
B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)  
OR  
C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) PARADISE HOMEOWNERS' ASSN.

4. New Owner/Claimant(s) TRINITY SPRINGS LTD.

New Mailing Address P.O. BOX 1630

City, State and ZIP Code KETCHUM, ID 83340

New Telephone Number (208) 726-7734

5. Date you acquired the property Nov., 1991

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated N/A Number and type of stock N/A

Diversion rate in CFS \_\_\_\_\_ Number of homes \_\_\_\_\_ Other uses \_\_\_\_\_  
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s) [Signature] Date 12-20-99

Date \_\_\_\_\_

8. (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)  
For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

State of Idaho  
Department of Water Resources

# WATER RIGHT LICENSE

WATER RIGHT NO. 63-10560

Priority: November 18, 1987 Maximum Diversion Rate: 0.96 CFS  
Maximum Diversion Volume: 694.0 AF

This is to certify, that PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647 has complied with the terms and conditions  
of the permit, issued pursuant to Application for Permit dated November 18, 1987; and  
has submitted Proof of Beneficial Use on July 26, 1988. An examination indicates  
that the works have a diversion capacity of 0.960 cfs of water from:

SPRINGS tributary to GROUSE CREEK

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> |
|-----------------------|----------------------|--------------------------|----------------------|
| HEATING               | 01/01 to 12/31       | 0.64 CFS                 | 152.0 AF             |
| DOMESTIC              | 01/01 to 12/31       | 0.05 CFS                 | 1.0 AF               |
| RECREATION            | 01/01 to 12/31       | 0.96 CFS                 | 694.0 AF             |
|                       | Totals               | 0.96 CFS                 | 694.0 AF             |

LOCATION OF POINT(S) OF DIVERSION: SWSWNE, Sec. 33, Township 03N, Range 10E  
Lot 4(NESW), Sec. 33, Township 03N, Range 10E  
ELMORE County

PLACE OF USE: HEATING

TWN RGE SEC

03N 10E 33 NWNE SWNE Lot 1(NENW)  
Lot 4(SENW)

PLACE OF USE: DOMESTIC

TWN RGE SEC

03N 10E 33 Lot 4(SENW)

PLACE OF USE:

RECREATION, same as DOMESTIC use

## 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.

State of Idaho  
Department of Water Resources

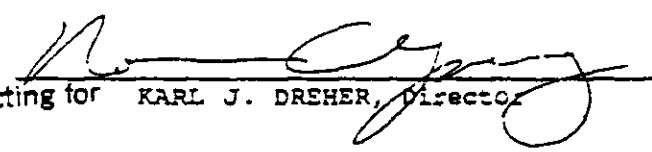
## WATER RIGHT LICENSE

WATER RIGHT NO. 63-10560

### CONDITIONS OF APPROVAL AND REMARKS

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. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.
6. The Director retains jurisdiction to require the installation of a totalizing measuring device of a type approved by the Department.
7. Heating use is for a lodge, a shop, 11 cabins and 43 homes known as Lots 1-35 and 39-46, Willis Carrie's Paradise Subdivision.
8. Domestic use is for a lodge.
9. Recreation use is for a swimming pool.

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 31<sup>st</sup> day of DECEMBER, 1992.

  
Acting for KARL J. DREHER, Director



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

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

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

January 3, 2000

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Mark Johnson  
Trinity Springs Ltd.  
P.O.Box 1630  
Ketchum, ID 83340

RE: Change of Ownership for a portion of Water  
Right 63-10560

Dear Mr. Johnson:

I am in receipt of the Change of Ownership form you have submitted for a portion of Right 63-10560, currently in the name of Paradise Homeowner's Association. Before I will be able to process your request, I will need some additional information from you.

As I understand your letter and the information in the water right file, you want to change the portion of the right associated with your property on Lot 38, Block 1 of Willis Carrie's Paradise Subdivision into your name. While you have provided a subdivision map, you did not include the required evidence of ownership of the designated property. The required information identified on the form is "A copy of the most recent Deed, Title Policy, Contract of Sale, or other legal document indicating your ownership of the property and water rights or claims in question, with attached legal description." A current tax notice is also helpful to verify current ownership if you purchased the property more than a year ago. This information will need to be supplied in order to process the ownership change.

Also, I would like you to specifically identify all the uses on your property. The field exam identifies heating for the lodge and a shop. You have already identified the domestic use for the lodge, so I would assume a proportion of the heating use associated with the lodge would also be assigned to your ownership. Is the shop or any cabins on your property? Please be specific about what uses under the right occur on your property and provide the square footage of any buildings using the water for heating.

It would also be helpful if the PHOA provided an acknowledgement letter identifying these uses on your property and an agreement to the ownership change. Since the right was developed under an association of users, we would wish to verify that no covenants, bylaws or other restrictions were placed on the use of the water when the property was purchased. An acknowledgement letter from PHOA would address this question.

If the change of ownership is completed to reflect the individual uses on your property, it would be necessary to identify a combined right limit between the two parts of the right. The rate of diversion identified under this right for heating use is then used for recreation use along with the remaining diversion capacity of the system. The diversion rate for all the uses are not additive, but limited to a combined total. The change of ownership does not authorize a change to the system in any manner, only specifies ownership. The water will continue to be used as developed; part of the water will be diverted to the homes for heating and then to the recreation use. The combined rights may not exceed the originally licensed rate of diversion for these combined uses.

Also, since the proposed new owner is a corporation, please provide a list of corporate officers for our records. This enables us to identify the individuals associated with a corporation when contacted regarding water right matters.

I hope that I have been clear in my requests for additional information. I have enclosed a copy of your original form for your reference. If you have any questions regarding this request, you may contact me directly at 327-7943. I will hold your ownership change form from processing for 15 days to allow you to respond. Thank you in advance for your help.

Sincerely,

A handwritten signature in cursive script that reads "Pamela S. Skaggs".

Pamela S. Skaggs

Sr. Water Rights Agent

Enclosure

STATE OF IDAHO  
IDAHO DEPARTMENT OF WATER RESOURCES  
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.  
Incomplete forms will be returned.

1. Water Right Number(s) #63-10560  
Adjudication Claim Number(s) \_\_\_\_\_

2. The following **REQUIRED** information must be submitted with this form.

A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

AND

B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) PARADISE HOMEOWNERS' ASSN.

4. New Owner/Claimant(s) TRINITY SPRINGS LTD.

New Mailing Address P.O. BOX 1630

City, State and ZIP Code KEETCHUM, ID 83440

New Telephone Number (208) 726-7734

5. Date you acquired the property NOV., 1991

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated N/A Number and type of stock N/A

Diversion rate in CFS \_\_\_\_\_ Number of homes \_\_\_\_\_ Other uses \_\_\_\_\_  
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s) [Signature] Date 12-20-99

Date \_\_\_\_\_

(Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)  
8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

RECEIVED

TRINITY

January 18, 1999

JAN 20 2000

Department of Water Resources

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720  
ATTN: Ms. Pamela Skaggs,  
Senior Water Rights Agent

RE: Trinity Springs Ltd. Application for Change In Water Right Ownership Pursuant to No. 63-10560

Dear Ms. Skaggs:

We are enclosing the documents you requested in your letter dated January 3, 2000.

As to your additional questions, here are our answers:

- 1) Yes, we want to change that portion of the right associated with Trinity's recreational and domestic uses on Lot 38, Block 1, Willis Carries's Subdivision, as the entire right for these two uses (pursuant to No. 63-10560) applies solely to beneficial uses that occur on Lot 38.
- 2) Trinity does not wish to change or separate any uses for heating, as Trinity participates as a beneficial user in the heating system serving the entire subdivision (as a member of the Paradise Home Owners' Association).
- 3) As regards paragraph 3 of your letter, Trinity's heating, domestic and recreational use pursuant to No. 63-10560 are beneficial uses that occur only on Lot 38, and the beneficial use for recreational and domestic purposes under the right is solely enjoyed by Trinity, not the association. The association and its members only have rights to the heating portion of the right.
- 4) The lodge, shop and cabins are all on Lot 38.
- 5) The square footage of buildings located on Lot 38 has previously been provided to the department. (If not in the department's records, please advise us and we shall provide it.)

The Paradise Home Owners' Association is aware of Trinity's effort to partition the ownership of No. 63-10560. We respectfully suggest the department contact the association for the requested "acknowledgment letter."

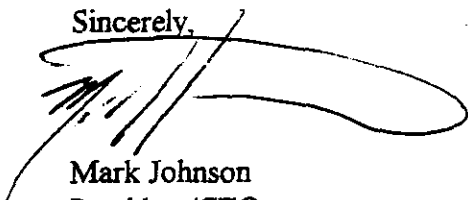
CORPORATE OFFICE  
P.O. Box 1630  
200 South Main Street  
Ketchum, Idaho 83340  
T 208.726.7734  
F 208.726.8015  
E tsprings@micron.net

SPRING SOURCE  
HC 87, Box 390  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2363  
F 208.653.2391  
E ts1plant@micron.net

PARADISE RESORT  
HC 87, Box 400  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2434  
F 208.653.2391  
E ts1plant@micron.net

Voluminous covenants, bylaws and a Memorandum Of Understandings, respectively, exist for the Subdivision and between the Association and Trinity. Trinity will provide them to the department, if the department determines them essential to Trinity's request for partition of the ownership rights. As is pointed out in your letter, "The change of ownership does not authorize a change to the system in any manner, only specifies ownership." Trinity, under the statutory definitions of beneficial use, desires to petition the entire right for recreational and domestic use as established in No. 63-10560 for its own purposes. As stated previously, Trinity views this as a clerical correction. Please call B.C. Young at 208.726.8796, if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Johnson', with a large, sweeping horizontal stroke extending to the right.

Mark Johnson  
President/CEO

cc: Randy Flowers, PHOA President

Enclosures: Tax Notice  
List of Corporate Officers

MAKE CHECK PAYABLE TO:

1999 TAX BILL/RECEIPT

PARCEL NUMBER

ELMORE COUNTY TAX COLLECTOR

RP00038001038AA

ROSE PLYMPTON (208) 587-2138

BILL#

8219

CODE AREA

4-00

L

89,094

150 S 4TH EAST SUITE 4

MTN HOME ID 83647-3094

I

314,274

1ST HALF DUE

2ND HALF DUE

FULL DUE

TOT MV

403,368

TAX 2,455.53

TAX 2,455.53

TAX 4,911.06

LATE

LATE

LATE

INT

INT

INT

COST

COST

COST

TOT

TOT

TOT

TOT ACS

41.940

TRINITY SPRINGS LTD

P O BOX 1630

KETCHUM

ID 83340

LOT 38 LESS TAX 7

BLK 1

WILLIS CARRIES PARADISE SUB

TAXING DISTRICT

RATE

AMOUNT

STATE

.000000000

COUNTY

.003807324

1,535.74

SCHOOL #193

.005544173

2,236.34

MTN HOME HWY

.000796045

321.10

COUNTY FAIR

.000055963

22.56

VETERANS MEM

.000030991

12.50

HOSPITAL DIST

.001269494

512.06

DISTRICT TOTAL

.011503990

4,640.30

SOLID WASTE FEE

255.76

FIRE CHARGE

14.50

FPA CHARGE

.50

AMOUNT DUE

4,911.06

JAMES P HAYDON  
ELMORE COUNTY ASSESSOR  
150 S 4TH E STE 2  
MOUNTAIN HOME ID 83647

ASSESSMENT NOTICE

JUN 09 REC'D 1999

RETURN SERVICE REQUESTED

CATEGORY DESCRIPTION

Tax Code

4-00

LOTS/ACRES

MARKET VALUE

15 RUR SUB RES  
16 RUR SUB COM  
37 BLDG RES SUB  
38 BLDG COM SUB

1.000 AC 14,000  
40.940 AC 75,094  
121,651  
192,623

Taxes are based on the valuation listed on this statement

FOR ANY QUESTIONS

PLEASE NOTIFY THE

ASSESSOR'S OFFICE BEFORE

JUNE 28, 1999

TOTAL:

41.940

403,368

PARCEL #

RP 00038001038A A

LOT 38 LESS TAX 7

BLK 1

WILLIS CARRIES PARADISE SUB

PROPERTY ADDRESS

PRIOR YEAR

CURRENT YEAR

Mail To:

TRINITY SPRINGS LTD

MUST BE RETURNED WITH PAYMENT  
RE SUBJECT TO BANK CLEARANCE

VALUE:

396,360

403,368

TAX: 5,506.86

5,599.60

P O BOX 1630

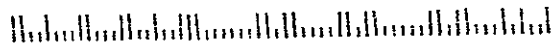
ID 83340

1999

8219

DO NOT PAY ESTIMATE

See back for details.



2ND HALF

AMOUNT DUE

2,455.53

4,911.06

AMOUNT DUE

2,455.53

ELMORE COUNTY  
RP00038001038AA  
4-00

LATE

INT

COST

TOT

LATE

INT

COST

TOT

ELMORE COUNTY  
RP00038001038AA  
4-00

LATE

INT

COST

TOT

DELINQUENT IF NOT PAID ON OR BEFORE DECEMBER 20, 1999  
DATE PAID  
PAID BY CHECK #  
CASH

DELINQUENT IF NOT PAID ON OR BEFORE  
DATE PAID  
PAID BY

JUNE 20, 2000  
CHECK #  
CASH

## **Trinity Springs Ltd.**

### **Corporate Officers and Directors – January 17, 2000**

#### **Corporate Officers**

|                    |                         |
|--------------------|-------------------------|
| Mark Johnson       | President and Treasurer |
| Robert Brewer      | Vice President          |
| Suzanne M. Kwapich | Secretary               |

#### **Corporate Directors**

William D. Johnson  
Mark Johnson  
Jock Bell  
Robert Burns  
Andre Carothers

JAN 27 2000



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098  
Phone: (208) 327-7900 FAX: (208) 327-7866

January 26, 2000

DIRK KEMPTHORNE  
GOVERNOR

Paradise Homeowners Assn. Inc.  
C/O Randy Fowers, President  
10071 Martindale Dr  
Boise, ID 83709

KARL J. DREHER  
DIRECTOR

RE: Proposed Change of Ownership of a part of Right 63-10560 by Trinity Springs Ltd.

Dear Mr. Fowers:

I am writing you in regard to the requested change in ownership of a portion of Right 63-10560 by Trinity Springs Ltd. I previously forwarded a copy of my January 3, 2000 letter requesting additional information from Trinity Springs. I have now received the necessary documentation to clarify ownership of the property (Lot 38, Block 1 of Willis Carrie's Paradise Subdivision) and am now requesting a comment letter from PHOA regarding this ownership split.

I am enclosing a copy of the second letter I received from Mark Johnson regarding the extent of use of water on Lot 38. Please specifically agree or disagree with the uses Trinity has identified on their property. They are proposing to split the right and identify the entire domestic and recreation use under their portion of the right.

Also, since the right was developed under an association, we want to provide you an opportunity to provide any documentation of restrictions of purchase, covenants, bylaws etc. that would prohibit the division of the association water right by individuals of the association. If you have no such restrictions, regarding the domestic and recreational uses please provide a statement to that effect.

I appreciate your time and efforts in this matter. The splitting of the water right by ownership does not authorize any change to the system in any manner. The water will continue to be used in the combined system, providing for the heating of homes first when required and then recreational use. Those times that heating is not necessary the water will be fully available for domestic and recreation use as authorized under this right.

Sincerely,

A handwritten signature in cursive script that reads 'Pamela S. Skaggs'.

Pamela S. Skaggs

Sr. Water Resource Agent

cc: Mark Johnson, Trinity Springs Ltd.

February 17, 2000

Dear PHOA Board Member,

The board is planning to meet on March 11, 2000 at the Paradise Lodge in Pine. The meeting will start at 10:30 A.M. The agenda of the meeting will include the following items:

- 
1. Sale of PHOA property along lot 54 to adjoining property owners. Property owners will be asked to attend and Earnest Money Agreements will be ready for their signatures.
  2. Trinity's request to IDWR to have ownership changed on License 63-10560 to their name for domestic and recreational uses identified on the license.
  3. Review of response from Trinity on the cost of having them perform the water tests on the cold water wells for PHOA.
  4. Review letter from Grouse Creek Cabins, Inc. that the board reconsider their water and sewer fees.
  5. Review letter from Central District Health Dept., requiring PHOA to monitor water quality parameters. The State of Idaho requires that any source for drinking water less than 200 feet from surface water is to be evaluated as a potential GWUDI. (ground water under the direct influence of surface water)
  6. Bowman Plumbing Bill

Regards,  
Judy McBride

David Smith  
801-863-8349  
February 26, 2000

URGENT

Dear PHOA Board Member:

On March 11, you, as a member of the PHOA Board, will be asked to evaluate a request from Trinity regarding hot water issues. This is being presented as a "correction" or a "clarification" to PHOA's water rights permit. But it is in fact, a very serious issue involving transfer of PHOA hot water rights to Trinity. These are hot water rights that belong to the members, and are a very valuable and important asset that PHOA, and only PHOA, owns.

This will now be the second time in a 12-month period that Trinity has attempted to convince PHOA to transfer hot water rights to Trinity. It will also be the second time Trinity has portrayed the proposal as a mere clerical issue, without disclosing the fact that it involves an enormous transfer of a valuable water property/asset from PHOA to Trinity.

In fairness to Trinity, they are in a position where should PHOA choose to do so, PHOA could literally and legally divert all of the virgin hot water flowing into Trinity's pool, to other PHOA uses. Under both the PHOA/Trinity Memorandum of Understanding (MOU) and the Idaho Department of Water Resources (IDWR) permit No. 63-10560, this hot water is all PHOA property, for heating, recreation, and domestic uses. The PHOA water PHOA uses to fill Trinity's pool constitutes a lot of PHOA's hot water. Understandably, Trinity would not like to see PHOA divert PHOA's water to uses other than filling the pool. Moreover, from a corporate standpoint, where Trinity's marketing has potentially made PHOA's water valuable, Trinity would like to have as much ownership and control over that water asset as possible. This is understandable from Trinity's point of view.

But all of the water belongs to PHOA. This is very clear in the mentioned MOU that was signed by both parties, including Trinity's president, and ratified by the PHOA members. The only right Trinity has under the MOU, is the right to use whatever water PHOA gives Trinity as a PHOA member, and the right to first claim on whatever water flows out of PHOA uses, such as hot water that flows out of cabins. PHOA also agreed in the MOU that PHOA could not ever sell the water commercially, and PHOA has lived up to that.

This is all clearly documented in the MOU, and elsewhere, and I have for your convenience made a summary on the attached page, both of the current situation, and what Trinity is trying to do. If you would like additional information in support for what I have documented here, I would appreciate the opportunity to show you in the text of our legal documents that everything I have said is exactly correct.

It appears that Trinity's plans are to continue to try one ploy after another to accomplish its goals regarding hot water ownership. While these goals are understandable from Trinity's viewpoint, they are very contrary to the interests of PHOA members. As a board member it is imperative that you take a suspicious eye toward any water proposals from Trinity or from anybody else, especially when they are pitched under the guise of "clarifications" or other non-straightforward descriptions.

David Smith

PHOA Board of Directors  
March 6, 2000

Paradise Home Owners' Association ("PHOA") Board of Directors  
c/o Randy Flowers, President of PHOA  
10071 Martindale Drive  
Boise, Idaho 83709

RE: PHOA Board Meeting of March 11, 2000; Request by Trinity Springs for  
Ownership Change to Water Right No. 63-10560; Related Use of Private Hot  
Tubs by PHOA Members

Dear Randy:

Trinity welcomes an opportunity to discuss with the PHOA Board of Directors issues related to the above reference subjects at Saturday's meeting. Accordingly, please find a written statement of Trinity's positions, which we feel may assist you and the board members in facilitating the meeting and better understanding the intentions of our company.

For purposes of clarification, we are separating issues of the controlling Memorandum Of Understanding ("MOU") between PHOA and Trinity and signed on April 4, 1996 from those of Idaho law pertaining to use of waters under the water right referenced, above.

A. Memorandum of Understanding

1. Paragraph Three of the MOU provides that existing and proposed uses of the hot water, domestic water, irrigation water and sewer facilities owned and operated by PHOA will have priority over any expanded use of such facilities by either PHOA or Trinity. [Emphasis Added.
2. The letter from PHOA's attorney, Mr. Thomas, to PHOA explaining PHOA's rights under the proposed MOU does not mention any use of hot water for private hot tubs. The MOU was subsequently revised by the entire membership, signed and accepted by over 75% of the membership.
3. Thus, Trinity believes any present use by PHOA for private hot tubs constitutes a "new and expanded use" under the MOU and cannot be expanded over the "existing" uses as described by Trinity and PHOA in the MOU at the time of the signing, namely, April of 1996.
4. In fact, if private hot tubs have been installed, Trinity's rights under the MOU to use the hot water have been diminished from the existing use of hot water by the company at the time the agreement was signed. Reading Paragraph 13 of the MOU establishes that, whether for commercial or private use, PHOA cannot grant "third party" use to its individual members. Paragraph 13 refers to Paragraph 3 by stating, pertinently:

"This paragraph shall not be construed or enforced in any manner which would restrict PHOA's right to use the hot water from the spring on the 44 acre parcel for any of the existing or proposed uses described in paragraph 3, above."

5. Trinity is an equal member of PHOA and under the MOU is entitled to protection from third party users. Trinity views private hot tub use as a "proposed use" by third parties. In fact, those PHOA members who do not have private hot tubs are entitled to this protection from expanded uses by fellow members, as well.

6. Additionally, diverting hot water into private hot tubs diminishes Trinity's beneficial use rights to the entire amount of "Recreational" use (0.96 cfs), as private hot tub use of the water diverts the flow to the pool on Lot 38 by way of discharge into PHOA's drainfield or surface discharge, if applicable (and as stated by a Grouse Creek owner at the December meeting). This is discussed in detail, below, under the Water Rights section of this letter.

7. Under the MOU and under the Water Rights License, Trinity has the power to enforce both the agreement and the state license, including a request for attorney's fees and costs, if the company prevails.

B. Water Right License No. 63-10560

Water rights pertaining to No. 63-10560 were originally issued by the Idaho Department of Water Resources ("IDWR") to PHOA on November 18, 1987, which is the established priority date for the use of the water. The rights involved established beneficial uses for heating for the homes, a lodge, cabins and a shop in Willis Carrie's Paradise Subdivision. The domestic use was for the beneficial uses in the lodge and the recreational use was for the swimming pool on Lot 38.

1. On April 30, 1991, IDWR conducted a field examination, which report established:

- a. Domestic Use - for lodge building, bathrooms, baths but not for drinking water or culinary uses.
- b. Heating - based on number of units in the subdivision for 180 days/year; and
- c. Recreational Use - water at the pool on Lot 38.

2. On September 19, 1991, IDWR wrote Trinity and stated:

a. "Licenses are appurtenant to where the water is used (the place of use)."

b. "Turning to Lot 38, what rights are found there? A portion of rights 63-04221, 63-10559 and 63-10560 are clearly appurtenant to Lot 38. The portion of each right attached to Lot 38 depends on the beneficial use described in the right and the percent of that use found on Lot 38 when compared to the remainder of the places of use."

c. "New appropriations for consumptive use of water that is considered tributary to the Boise River system face complications relating to existing water rights in the river basin. Essentially, any new right using such water for consumptive purposes must include a method to make up the loss to the river system to prevent injury to senior rights utilizing the river water." - The springs on lot 38 and the 44 acre parcel are considered tributary to the South Fork of the Boise River Basin.

3. On November 13, 1997, IDWR wrote PHOA and stated the conditions attached to the amended license No. 63-10560, as follows:

a. RE: First Condition. "When issuing a water right license confirming that a water right has been established, IDWR's responsibility is to confirm the beneficial use established before the proof of beneficial use statement is submitted. In most cases, a water right license cannot be issued for any new use of water developed after the proof of beneficial use is submitted." [Emphasis Added.]

b. "IDWR's field examination was conducted on November 16, 1989. The field examiner found the water being used in the lodge and swimming pool as permitted. He found water being used for heating in 33 units, including the lodge, a shop, and 31 homes. The annual diversion volumes recommended by the field examiner were based on flow rate estimates and number of units being heated."

c. Importantly, IDWR wrote about the 1997 amendment to the license that, "...you have three reasons for asking IDWR to increase the diversion rate and annual volume for heating. First, you believe there was an error in IDWR's calculations used to estimate the amount of water beneficially used. Second, the homes being heated are larger than used in IDWR's original estimates. And third, according to measurements by McClure Engineering, the springs from which you divert produce a combined rate of flow water of about 0.96 cfs.

"The first two reasons warrant new calculations - please see the attached worksheet. Based on the new calculations, I propose raising your diversion rate for heating to 0.64 cfs and your annual volume for heating to 152 acre feet. As I stated before, the licensed diversion rate cannot exceed the diversion capacity developed by the time of the field examination. Changes you [PHOA] have made in pumping capacity since 1989 cannot be included in this license. Therefore the diversion rate for heating and the total diversion rate must be limited to 0.64 cfs because that is the maximum capacity of your system in 1989 as estimated by a field examiner, who did not have the aid of a measuring device. It is worth noting, however, that if you apply McClure's engineering report to the 43 homes, 11 cabins, 1 shop and 1 lodge heated under your license, you come up with a figure very close to 0.64 cfs.

"While the pumps in place at the time of the field examination result in a limitation on the amount of water that can be licensed for heating purposes, I see no such limitation for

March 6, 2000

the recreation use. If I understand the field examiner's report correctly, the entire flow of both spring sources is ultimately diverted to the swimming pool, with some of the water being used for heating along the way. If we use the McClure report flow measurements, a total of 0.96 cfs (430 gpm) is apparently diverted to the swimming pool for recreational use. I will recommend that water right license 63-10560 show 0.96 cfs for recreation purposes." [Emphasis Added.]

C. Discharges From Private Hot Tubs

Agencies of the State of Idaho have advised Trinity, as follows:

1. On November 29, 1999, IDEQ advised that "any discharge into Grouse Creek requires a permit from either DEQ or EPA, depending on who owns the discharge pipe, and;
2. Any discharge to land or "subsurface" requires a permit from either DEQ or the health department, or both.

Summary of Trinity's Positions Before the PHOA Board of Directors

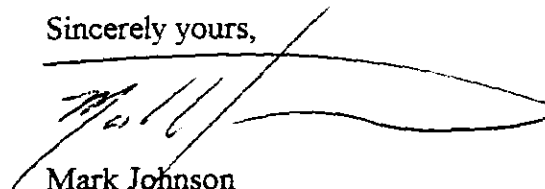
1. Trinity's position is that the beneficial use was established for the Willis Carrie's Paradise Subdivision at the 1987 priority date and is supported by IDWR's Field Exam shortly after that. No additional use can be established under the license.
2. Trinity is protected by the MOU (paragraph 3) from any new or expanded use by individual members for private hot tubs with hot water from springs on both Lot 38 and the 44 acre parcel
3. Paragraph 13 of the MOU in reference to Paragraph 3 protects Trinity from any new diversion of hot water.
4. Although "heating" is not presently defined by IDWR, calculations for the license are determined by IDWR's formula, which includes square footage of buildings, insulation factors, temperature of ambient air, water temperature and number of days. License No. 63-10560 is calculated by IDWR for "space heating" for not more than 180 days per year. At no place in the formula is there a provision for consumptive use, or any use by individual PHOA members for private hot tubs.
5. Language in the License refers to the use of hot water for "space heating," and at no point in either the license or in correspondence between PHOA and IDWR is the use of private hot tubs contemplated. Additionally and in support, IDWR has written that each homes can use not more than 5 gpm under the heating portion of the license and that such use is conditioned under the license as "non-consumptive," as the entire amount is eventually returned to the pool on Lot 38.

PHOA Board of Directors  
March 6, 2000

6. The license provides the entire amount of hot water (0.96 cfs) is to be returned to the pool on Lot 38 for recreation use, thus any private hot tub use that diverts this flow is unlawful under the license. PHOA can prove no beneficial use of that water, as the complete use for recreation (0.96 cfs) is appurtenant to Lot 38, which is owned by Trinity.
7. Appropriate discharge permits for adulterated hot water from private tubs must be obtained by either PHOA or individual members. In addition, any use that reduces the total amount of water from the Boise River System requires that compensating amounts be placed into the system for downstream users with senior rights. PHOA or individual members would have to secure replacement water for any contemplated new consumptive uses.
8. Under the MOU and Idaho law, there is no basis for PHOA objecting to the splitting of the existing license between PHOA and Trinity based on Trinity's sole beneficial use of appropriated hot water for domestic use and recreation use on Lot 38.
9. PHOA's use of hot water is limited only to heating, however heating may be subsequently defined, and PHOA members cannot divert hot water from Trinity's right for the entire amount of hot water returning to the swimming pool on Lot 38, i.e., 0.96 cfs.

We appreciate your consideration of the above facts and look forward to seeing you at the meeting on March 11, 2000.

Sincerely yours,



Mark Johnson  
CEO

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Shelly Keene, Water Rights Supervisor  
Pamela Skaggs, Sr. Water Rights Analyst



## 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

March 22, 2000

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Trinity Springs Ltd.  
Mark Johnson  
P.O. Box 1630  
Ketchum, ID 83340

RE: Notice of Change of Water Right Ownership  
for Water Right 63-10560

Dear Mr. Johnson:

The Department received the above referenced change of ownership form dated 12-20-99. In order to process the change of ownership, I requested additional information from both you and the current right holder of record, Paradise Homeowner's Association (PHOA)

I received the additional information requested from you on 01-20-00. On 03-20-00, I received a letter from Randy Fowers, President of PHOA, and copy of the Memorandum of Understanding (MOU) between Trinity Springs Ltd. and PHOA dated 04-19-96.

After reviewing the information provided, it appears that the intent of the MOU is to maintain a single ownership for the association of users. The Department will not process the change of ownership. The information and your request will be made part of the file for future reference. I have also enclosed a copy of the letter from Randy Fowers for your records.

If you require additional information regarding this matter, please call me directly at (208) 327-7943, e-mail me at [pskaggs@idwr.state.id.us](mailto:pskaggs@idwr.state.id.us) or contact me by mail, and I will be happy to assist you.

Sincerely,

Handwritten signature of Pamela S. Skaggs in cursive script.  
Pamela S. Skaggs

Sr. Water Rights Agent

Enclosure

MAR 20 2000

Department of Water Resources

March 14, 2000

Pamela S. Skaggs, Sr. Water Resources Agent  
State of Idaho Department of Water Resources

Dear Ms. Skaggs

In reply to your request for comments on the proposed ownership change on the Domestic and Recreational uses granted under license number 63-10560 by PHOA, please accept the following.

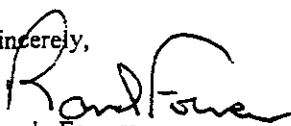
The Board of directors of PHOA has meet and reviewed this request. They passed a resolution to oppose the change requested by Trinity. PHOA feels that the various uses granted by the license are so intertwined that to try to separate the uses in any way has a strong likelihood of fostering future confusion and misunderstanding. This is easily understood by considering that the recreational use granted in the license is in fact the total of all the water available from the source. Although we understand that the rights granted in the license for heating would not diminish by this action, we can see no reason for the change based on the explanation provided by Trinity.

We strongly believe that PHOA being recognized as the owner on the license was not an error on the part of any of the parties involved, but the result of much effort and time being invested by PHOA and Trinity that resulted in an agreement referred to as the Memorandum of Understanding "MOU" (copy attached). This legally executed document attempted to settle disputes between PHOA and Trinity of which the hot water was one of the major items. The uses that are affirmed on the license can also be found in section 3 of the MOU and clearly show that PHOA was intended to be the OWNER/OPERATOR as it pertained to those uses.

PHOA by its bylaws is charged with the maintenance and operation of the hot water system that supplies this resource to all of the members of the association for the uses allowed by our licenses and permits. These systems are common to all and would be difficult to separate into uses for one member. Trinity is a member of the association and their rights are certainly defined and protected by the association bylaws as well as the MOU between PHOA and Trinity.

The requested change of ownership would indeed serve to diminish the value of PHOA and in light of that, the Board feels that it must take any and all action available to them to ensure that the change does not take place. We can see no difference between this request and a request that might come from any other property owner that is a member of PHOA and receiving services supplied by PHOA under this license. As a practical matter, IWDR affirmed that PHOA was indeed the owner when it preformed the field study and issued the license to PHOA.

Sincerely,

  
Randy Fowers  
President, PHOA

April 21, 2000

IDAHO DEPT. OF WATER RESOURCES (IDWR)  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Pamela Skaggs, Senior Water Rights Agent

RE: Request for Re-consideration of Change of Ownership; Water Rights  
License No. 63-10560.

Dear Ms. Skaggs,

We are disappointed with the conclusions expressed in the letter we received from the department dated March 22, 2000 concerning Trinity Springs Ltd.'s (TSL) request for a Change of Ownership on Water Right No. 63-10560. This letter is to request that the department reconsider its decision not to process our application in light of our explanation herein.

In further support, we are enclosing a copy of TSL's letter to Paradise Home Owners' Association ("PHOA") dated March 6, 2000 to supplement IDWR's review. TSL wishes this letter, which outlines the history of the license, to be made a part of the record of the department's decision.

We believe the letter from TSL to the association states the history of the license both fairly and accurately. Moreover, we point out that the letter the department received from Randy Fowers, President of the Paradise Home Owners' Association ("PHOA"), dated March 14, 2000, and subsequent to the meeting of the Board of Directors of the association, did not rebut any of the statements in TSL's March 6th letter to the association.

In support of our request for the IDWR's reconsideration, we are taking this opportunity to rebut several of President Fowers statements, as follows:

A. In the second paragraph of his letter, Mr. Fowers states PHOA objects because "various uses are so intertwined that to separate the uses in any way has a strong likelihood of fostering future confusion and misunderstanding." Two sentences later, Mr. Fowers admits: "Although we understand that the rights granted in the license for heating would not

diminish by this action, we can see no reason for the change based on the explanation provided by TSL.”

TSL believes the “intertwined uses” referred to by Mr. Fowers and the association exist only in the minds of himself and the PHOA. The license in question clearly quantifies the volumes of geothermal waters allotted to heating, recreational and domestic use. Further, the IDWR’s field studies and the license state that the recreational and domestic uses occur solely on Lot 38, which is owned by TSL. Neither the association nor any member has been given the privilege of entering TSL’s property to make use of the geothermal water for recreational or domestic uses. Accordingly, all beneficial uses for those waters exist for the private purposes of TSL, which has been the situation since TSL purchased the property in 1991.

As for the heating use, the license has always separated and distinguished heating use from recreational and domestic uses and we point out TSL’s application states that there is no intention to change or interrupt the heating use for the entire PHOA membership in any manner.

At the recent meeting, TSL explained to PHOA’s board that the reason for the change is because in TSL’s opinion some PHOA members, including Mr. Fowers, are illegally diverting geothermal waters out of the heating system, which return to TSL’s pool on Lot 38, to their private hot tubs. TSL’s position is that it is essential to change the license to conform to the laws and regulations of Idaho in order for TSL to fulfill its purposes, functions and responsibilities as an Idaho corporation. In this effort, TSL intends to disassociate itself from any possible illegal uses of geothermal waters and concurrent discharges by PHOA and its members and to assert its rights under the doctrine of beneficial use as recognized by the IDWR and the legislature.

B. TSL disputes Mr. Fowers’ assertion in paragraph 3 of his letter, whereby he states the Memorandum of Understanding provides “The uses that are affirmed on the license can also be found in Section 3 of the MOU and clearly show that PHOA was intended to be the OWNER/OPERATOR as it pertains to those uses.” Mr. Fowers’ views are different from TSL’s. TSL believes PHOA cannot prove beneficial use of the recreation and domestic uses on the license and, thus, has no legal claim to the recreational and domestic uses provided by license No. 63-10560. Paragraph 3

recognizes the parties to the agreement have uses of the geothermal waters that are individual and distinct. Such uses are to be protected by the parties. Additionally, PHOA has never performed any function other than to be the OWNER/OPERATOR of the heating system.

In truth, Paragraph 3 of the MOU recognizes previous uses of the water for PHOA and TSL, respectively, and at no place in the agreement or in negotiating the agreement was the development of private hot tubs in members homes contemplated. As stated earlier, at no place in the MOU does TSL give individual PHOA members any rights to use Lot 38 for recreational and domestic purposes. In fact, the MOU does exactly the opposite by prohibiting any new uses by either PHOA or TSL or third party members, except as specifically stated in Paragraph 3 and Paragraph 13 of the agreement.

Mr. Fowers cannot read an interpretation into the MOU which is not within the four corners of the agreement. Assuming he, as President of PHOA, supports the association's members present diversions of hot water into private hot tubs, TSL believes that such conduct constitutes a breach by the association of promises made in the MOU agreement.

C. Paragraph 4 of Mr. Fowers letter is not relevant to the issues concerning splitting the ownership of Water Rights License No. 63-10560, as disputed herein. The heating system is not an issue of dispute, nor is the association's bylaws.

D. In Paragraph 5, Mr. Fowers unsupported assertion that "The requested change of ownership would indeed serve to diminish the value of PHOA..." is without factual support or relevant meaning and should not be considered by the IDWR in processing TSL's request. If the association is now claiming a property right or "value" for the recreational and domestic uses of geothermal waters that occur on TSL's Lot 38, it has a heavy burden under Idaho law. Importantly, the IDWR is not the proper forum for PHOA to advance non-proven property rights and/or specious arguments relating to "the value of PHOA."

Finally, Mr. Fowers misstates the fact that when the IDWR performed a field study PHOA owned Lot 38 of Paradise Subdivision. Lot 38 has never been owned by PHOA. What Mr. Fowers overlooks is the written statement

from the IDWR to Trinity on September 19, 1991, five years prior to signing the MOU, stating that "Licenses are appurtenant to where the water is used (the place of use)." This statement and others supporting TSL's efforts to properly change the ownership of the recreational and domestic uses permitted under the license were provided to the Paradise Board on March 6, 2000. Apparently, the Paradise Board has chosen to ignore their plain meaning.

In conclusion, TSL's believes that PHOA's objections to a change of ownership to split the uses in Water Right No. 63-10560 are without merit and are unreasonable. TSL's request merely brings the license into compliance with Idaho statutes and the regulations of the IDWR. See, Idaho Code 42-201, *et. seq.* For that reason, TSL requests that the Department reconsider its previous reliance on Mr. Fowers letter as a basis for denying TSL's application and proceed with splitting the ownership as requested previously.

Respectfully submitted,



Mark Johnson, CEO

Attachment:

Letter To PHOA, dated March 6, 2000

cc: Randy Fowers, President  
Paradise Home Owners' Association  
10071 Martindale Drive  
Boise, Idaho 83709



## 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

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

June 13, 2000

Mr. Mark Johnson  
Trinity Springs Ltd.  
P.O. Box 1630  
Ketchum, ID 83340

RE: Notice of Change of Water Right Ownership  
for Water Right 63-10560

Dear Mr. Johnson:

This responds to your letter of April 21, 2000 to Pamela Skaggs, Senior Water Rights Agent, requesting reconsideration of the Department's decision not to process the Notice of Change of Water Right Ownership submitted by Trinity Springs Ltd. After reviewing the file and your request for reconsideration, I concur with the Department's prior determination.

Your objection to the Department's action appears to be based upon a misreading of section 42-248, Idaho Code. That code section requires that the holder of a water right shall provide notice to the Department of Water Resources of "any change in ownership of any part of the water right or of any change in the owner's mailing address." In this instance, you have not provided documentation showing a change in legal ownership of any part of Water Right License 63-10560 to Trinity Springs Ltd. Rather, the correspondence you have submitted argues that the Department should make a legal determination that Trinity Springs Ltd. is entitled to have a portion of License 63-10560 changed to its ownership.

Simply put, section 42-248, Idaho Code, does not provide the Department with authority to change the legal ownership of a water right. Under this code section, the Department only has authority to record a change in ownership that has already occurred through voluntary conveyance, court decree, or other similar means. In this case, because such evidence of a change in legal ownership of licensed right 63-10560 has not been provided it would be inappropriate for the Department to record the Notice of Change of Water Right Ownership which you have submitted.

Separately, I am directing Department staff to review whether the use of water in private hot tubs is authorized under License 63-10560. If it is not, appropriate enforcement action may be commenced.

Sincerely,

A handwritten signature in cursive script that reads "Norm C Young". The signature is written in dark ink and is positioned above the printed name.

NORMAN C. YOUNG  
Administrator  
Water Management Division

Cc: Randy Fowers, President  
Paradise Home Owners' Assoc.

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Sincerely,

A handwritten signature in cursive script that reads "Norm C Young".

NORMAN C. YOUNG  
Administrator  
Water Management Division

Cc: Randy Fowers, President  
Paradise Home Owners' Assoc.

TRINITY  
File Copy

June 19, 2000

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Norman Young, Administrator  
Water Management Division

RE: Trinity Springs Ltd.'s Application to Split Ownership of Water Right No. 63-10560; Request for Reconsideration of Denial of Application

Dear Mr. Young:

INTRODUCTION:

Trinity Springs Ltd. ("Trinity") is responding to your recent letter concerning our earlier application to split ownership of Water Right No. 63-10560. We appreciate the IDWR's ("the Department") decision to review whether private hot tubs installed by individual owners of the Paradise Subdivision are appropriate, particularly given the Department's consistent practice of using a statewide formula based on square footage of buildings, insulation values, geographical location and number of heating days to calculate the precise volumes of geothermal waters that may be appropriated for "heating" purposes in Idaho.

Trinity's opinion is that the Department's regulations presently make no provision for appropriation of state geothermal waters for private hot tubs as a beneficial, non-consumptive heating use. For the Department to permit unfettered consumption of geothermal waters to be used in hot tubs as a "heating" use would essentially defeat the purpose of the Department's scientific formula, which intention is to calculate and control reasonable appropriations of geothermal water volumes.

This is not to argue that geothermal waters cannot be used for private hot tubs; hot tubs can be permitted as a domestic use. See IDAPA 37.03.08.010.15. However, any new domestic use permit for residential hot tubs would be junior to the present license and must necessarily insure that private purpose diversions not interfere with the senior recreational uses that occur on Lot 38 of the subdivision, which is the private property where Trinity's lodge is sited. Private individuals must not be permitted to divert

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SPRING SOURCE  
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PARADISE RESORT  
HC 87, Box 400  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2434  
F 208.653.2391  
E tsplant@micron.net

geothermal waters from the Association's heating system for their individual homes, as such diversions would deplete the pristine waters returning to Lot 38 from the closed loop heating system. Returning less water - and cooler water - to Lot 38 will assuredly injure the recreational use value of the property and violate Trinity's deeded right to quiet enjoyment of its property. Accordingly, new permitted diversions for individual use, if permitted, might well have to occur downstream from Lot 38.

These facts viewed in context with Trinity's increasing concerns over present non-permitted diversions occurring, raised the issue of partitioning the ownership of the existing water right. Thus, late in 1999 Trinity wrote the Department with the intention of correcting and splitting the ownership pursuant to beneficial and actual uses pertaining to the domestic and recreational portions of the appropriated waters approved by the Department in 1987.

### ARGUMENT

Trinity's pending reconsideration request for splitting the Water Right ownership for recreational and domestic use relies, in part, on the Department's previous documentation, as follows:

- A. In 1987, the Department conditioned License No. 63-10560 and stated in Condition # 2, that the water right is appurtenant to the place of use. The fact is that all waters (100%) appropriated for recreational and domestic uses under permit No. 63-10560 occur on and are appurtenant to Lot 38, which property has never been owned by the Paradise Homeowners Association, Inc.;
- B. IDWR's Field Exam Report dated April 30, 1991, confirms that the domestic and recreational uses are on Lot 38 and, separately, that the heating system is "based on the number of units and 180 days;"
- C. IDWR wrote Trinity on September 19, 1991, and stated "licenses are appurtenant to the property where water is used (the place of use)," and, further, correctly stated that "the portion of each right attached to Lot 38 depends on the beneficial use described in the right and the percent of that use found on Lot 38 when compared to the remainder of the place of use."

In that light, Trinity believes the Department must reconsider and approve the application for splitting the ownership of the rights. Surprisingly, the Department's letter dated June 13, 2000 completely ignores the Department's earlier field studies and statements, which Trinity has cited since the inception of its effort to correct the Department's administrative error. While the Department's original error is understandable, we are puzzled as to why the Department refuses to correct the named owner of the water right. Merely splitting the ownership between the Association and our

company would bring the permit into compliance with Idaho law and the Department's promulgated regulations. See IDAPA 37.03.08.050.01 (Rule 50) and IDAPA 37.03.08.045 (Rule 45).

The Letter of Denial states that you "concur with the Department's prior determination." Apparently, the determination referred to is stated in the Department's letter dated March 22, 2000, as that is the only "determination" Trinity has received. In that letter, the Department stated it will not process the change of ownership application because "it appears that the intent of the MOU [Memorandum of Understanding] is to maintain a single ownership for the association of users." This arbitrary denial resulted in our earlier request that the application requesting an ownership split receive further consideration.

Importantly, the MOU signed in 1996 is not material to the issue of a change of ownership and, accordingly, is not a reasonable explanation for denying the application. While it is true an MOU exists, it is inappropriate for the Department to make a determination of ownership of a water right by "interpreting the intent" of a private agreement between the Association and our company that occurred several years after the license was issued. Diversions of geothermal water from the Association's heating system for private hot tub users are not mentioned anywhere within the four corners of the agreement. Moreover, it is unreasonable to assume Trinity would have "intentionally" entered an agreement that would be detrimental to the delivery of geothermal waters to Lot 38.

By denying our application, the Department now compounds its original administrative mistake by relying on a private MOU for its "determination." Such reliance is not only misplaced, but under the present facts places the Department squarely inapposite to its own regulations and the laws of this state. Again, the application merely requests the Association's heating uses rights be separated from Trinity's recreational and domestic use of water on its own private property. Please note the initial letter submitted by Trinity in support of its application distinguishes the uses, while stating clearly that the company does not wish to interfere with the reasonable heating uses of permit No. 63-10560.

(In truth, Trinity believes the Association has breached the MOU. Under pretenses of the Association, several individual members have admittedly instituted new, non-permitted uses by diverting geothermal waters intended for space heating of homes to their own private hot tubs. Under the MOU, private tubs constitute a "new use" and violate the plain language of the MOU. Our opinion is such conduct injures Trinity's quiet enjoyment of its property and values related to recreational use. Notwithstanding, MOU violations are peripheral to the issue before the Department concerning the ownership split. The IDWR is not the appropriate forum for resolution of alleged MOU breaches. Nevertheless, a detailed explanation of the MOU's provisions was provided to the Department in our letter of April 21, 2000.)

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(In truth, Trinity believes the Association has breached the MOU. Under pretenses of the Association, several individual members have admittedly instituted new, non-permitted uses by diverting geothermal waters intended for space heating of homes to their own private hot tubs. Under the MOU, private tubs constitute a "new use" and violate the plain language of the MOU. Our opinion is such conduct injures Trinity's quiet enjoyment of its property and values related to recreational use. Notwithstanding, MOU violations are peripheral to the issue before the Department concerning the ownership split. The IDWR is not the appropriate forum for resolution of alleged MOU breaches. Nevertheless, a detailed explanation of the MOU's provisions was provided to the Department in our letter of April 21, 2000.)

Accordingly, Trinity herewith respectfully requests that the Department reconsider its recent decision to "concur with the Department's prior determination." The proper course is for the Department to split ownership of the right. In the alternative, should the Department again deny our application, Trinity herewith requests that the denial be issued in a formal manner addressing the legal reasons for the denial.

To date, Trinity has taken every precaution available to remedy the present *status quo* in the least intrusive manner to both the Association and the Department. Since 1971, the exclusive way to acquire a water right in Idaho has been by the permit method. A junior appropriator is entitled to divert water only when the rights of previous appropriators have been satisfied. Nahus v. Hulet, 114 Idaho 23, 752 P.2d 625(1988), citing Beecher v. Cassia Creek Irrigators Co., 66 Idaho 1, 154 P.2d 507 (1944); Neilson v. Parker, 19 Idaho 725, 115 P.2d 488 (1911).

Prior to the permitting method, appropriating state waters is recognized as a Constitutional right by beneficial users, commonly incorporating doctrines of beneficial use and of "first in time; first in right." *Id.* Presently, ample records, including personal affidavits, are on file at the Department documenting that the owners of what is now Lot 38 used the geothermal waters of Grouse Creek for recreational and domestic purposes long before the permitting method was implemented in Idaho. These Constitutional uses have never been interrupted.

In 1987, when the Department issued Water Right No. 63-10560 to the Association for purposes of circulating the geothermal waters for space heating of homes on nearby properties, the owners of Lot 38 did not waive their Constitutional claims to the full benefits of the geothermal springs for their own private purposes. Additionally, and as pointed out previously, the permit issued explicitly states (and limits by conditions) that the recreational and domestic uses of the geothermal waters are only for Lot 38.

Relying on Idaho laws and the Department's regulations, Trinity will litigate its senior water rights claim, if necessary.

While you correctly point out that Idaho Code § 42-248 does not provide authority for the Department to change the legal ownership of a water right, nothing in the Idaho Code prevents the Department from correcting errors in a previously issued permit. More reasonably, equity demands the converse, as it is universally presumed in administrative law that an agency empowered to license possesses sufficient corresponding power to correct its error(s).

Trinity has never relied on I.C. § 42-468 to buttress its request to partition ownership. For the Department to explain its denial of our application by referring to I.C. § 42-248 is, borrowing the Department's own language, "simply wrong."

In support, we point to Section 6 of the Department's Notice of Change of Water Right Ownership Form submitted in support of our application, which form explicitly

states in two separate sentences that the Department is empowered "to split the water(s) rights."

Our review of our correspondence to the Department shows Trinity previously cited I.C. 842-201, *et. seq.* Sub-paragraph(2) of that statute explicitly states that no person shall use the waters of the state of Idaho except in accordance with the laws of the State of Idaho. Unarguably, if a licensee holds a license whereby beneficial use cannot be established, such license would not be in accordance with Idaho law.

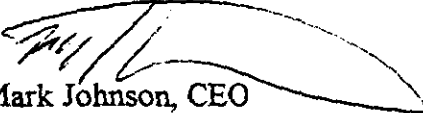
The Department's own field examinations substantiate the Association cannot meet a beneficial use burden of proof for either domestic or recreational use under permit No. 63-10560. That is reason enough to approve Trinity's application and split the ownership rights.

### CONCLUSION

As argued herein and earlier, Trinity believes the Department has a duty to insure such an appropriate correction is made to Water Right No. 63-10560 pursuant to submitting its "Notice of Change of Water Right Ownership" form on December 20, 1999.

If a more appropriate procedure is available to implement the requested ownership split and bring the license into compliance with Idaho laws and regulations, Trinity respectfully requests the Department advise us of the proper procedure. Unless otherwise directed, we repeat our request that our pending application for an ownership change be reconsidered and approved by the Department at its earliest opportunity.

Sincerely yours,

  
Mark Johnson, CEO

cc: Randy Flowers, President  
Paradise Homeowner's Association, Inc.  
10071 Martindale Drive  
Boise, ID 83709

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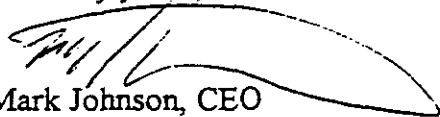
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Sincerely yours,

  
Mark Johnson, CEO

cc: Randy Flowers, President  
Paradise Homeowner's Association, Inc.  
10071 Martindale Drive  
Boise, ID 83709

## MEMORANDUM

**TO:** PHIL RASSIER  
**FROM:** NORM YOUNG *NY*  
**RE:** PARADISE HOMEOWNERS ASSOCIATION (63-10560)  
**DATE:** May 20, 2000

---

Do you have time to draft a letter ( or should it be a preliminary order?) advising Trinity Springs Limited that the change of ownership request will not be recorded? My brief review of the file indicates that the information supporting the request does not show that Trinity has demonstrated ownership of the water right. The right as originally established is, in part, appurtenant to Trinity's property, but I do not see that they have the ownership of the right itself. Seems a little like a patron of United Water deciding that the patron should declare ownership of his increment of the overall water right.

IDWR should take a hard look at whether the use of water in private hot tubs is authorized. If it is not, an enforcement action should be commenced.

## MEMORANDUM

Date: April 25, 2000

To: L. Glen Saxton

From: Jeff Peppersack 

Re: Water Right License No. 63-10560, Paradise Homeowners Assoc. Inc.  
Change of Ownership Dispute

A change of ownership was filed on this license by Trinity Springs Ltd. and is being disputed by the current owner of record (PHOA). The license was issued for use of geothermal water for heating, domestic and recreation purposes. The heating use is for multiple homes in the subdivision as well as a lodge and related facilities owned by Trinity Springs. The recreation and domestic uses are limited to the lodge and related facilities including a swimming pool.

Trinity Springs Ltd. filed the change of ownership to change the domestic and recreation portion of the right to their ownership. We asked for comments from PHOA regarding the change of ownership and received a letter (see file) opposing the change. We have not processed the change of ownership at this point for a couple of reasons.

1. The domestic use appurtenant to the lodge is distributed by a common system owned by PHOA. The recreation use (pool) appurtenant to the lodge is distributed, in part, by the same system (including return flows from the system) and also receives water from springs originating within the pool. The recreation use is allowed the full flow and volume of the water right because it captures all of the original and return flows at some point. It would be very difficult to equitably split the water right and still maintain the flow limitations under the right as it currently exists. We normally do not attempt to place a combined use limitation on water rights with different owners. In this case, it appears that the change of ownership is an attempt, by Trinity Springs Ltd., to sever their ties under the water right with PHOA. That would not be possible for this water right.
2. A memorandum of understanding exists between Trinity Springs Ltd. and PHOA that may serve the purpose of maintaining ownership of the water right in the name of PHOA. I think additional review by our legal section may be warranted here.

Trinity Springs has written a letter (see attached) requesting that we reconsider our decision not to process the change of ownership. We could use some guidance on this one.

## MEMORANDUM

Date: June 16, 2000

To: WR File No. 63-10560

From: Jeff Peppersack

Re: Phone Call from Randy Fowers Regarding Letter of June 13, 2000

I returned Mr. Fowers (Paradise Home Owners Assoc.) call regarding use of hot tubs for cabins/homes under this license. I explained that the license included a heating use for the homes and the documentation in the file showed space heating as the use developed. Mr. Fowers indicated that he understood from past conversations with the Department that the hot tub use was not significant and would not be measurable and therefore would not be included on the field reports. He said some of the hot tubs were in existence prior to licensing.

I stressed that any new developments after licensing would constitute an enlargement and would require a new permit. I explained that new consumptive uses in Basin 63 would require some form of mitigation plan before a permit could be issued. Mr. Fowers indicated that they have an existing permit that could possibly be amended to show use for hot tubs. He plans to follow-up with Western Region.



## 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

DIRK KEMPTHORNE  
GOVERNOR

June 13, 2000

KARL J. DREHER  
DIRECTOR

Mr. Mark Johnson  
Trinity Springs Ltd.  
P.O. Box 1630  
Ketchum, ID 83340

RE: Notice of Change of Water Right Ownership  
for Water Right 63-10560

Dear Mr. Johnson:

This responds to your letter of April 21, 2000 to Pamela Skaggs, Senior Water Rights Agent, requesting reconsideration of the Department's decision not to process the Notice of Change of Water Right Ownership submitted by Trinity Springs Ltd. After reviewing the file and your request for reconsideration, I concur with the Department's prior determination.

Your objection to the Department's action appears to be based upon a misreading of section 42-248, Idaho Code. That code section requires that the holder of a water right shall provide notice to the Department of Water Resources of "any change in ownership of any part of the water right or of any change in the owner's mailing address." In this instance, you have not provided documentation showing a change in legal ownership of any part of Water Right License 63-10560 to Trinity Springs Ltd. Rather, the correspondence you have submitted argues that the Department should make a legal determination that Trinity Springs Ltd. is entitled to have a portion of License 63-10560 changed to its ownership.

Simply put, section 42-248, Idaho Code, does not provide the Department with authority to change the legal ownership of a water right. Under this code section, the Department only has authority to record a change in ownership that has already occurred through voluntary conveyance, court decree, or other similar means. In this case, because such evidence of a change in legal ownership of licensed right 63-10560 has not been provided it would be inappropriate for the Department to record the Notice of Change of Water Right Ownership which you have submitted.

Separately, I am directing Department staff to review whether the use of water in private hot tubs is authorized under License 63-10560. If it is not, appropriate enforcement action may be commenced.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman C. Young". The signature is fluid and cursive, with the first name "Norman" written in a more compact, stylized manner and the last name "Young" written more fully.

NORMAN C. YOUNG  
Administrator  
Water Management Division

Cc: Randy Fowers, President  
Paradise Home Owners' Assoc.

RECEIVED

April 21, 2000

IDAHO DEPT. OF WATER RESOURCES (IDWR)  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Pamela Skaggs, Senior Water Rights Agent

Randy Fowers  
Paradise Homeowners Assn.  
—  
Called 4-24-00 to check  
status of Ownership  
change. Wants to be  
included in future actions.

RE: Request for Re-consideration of Change of Ownership; Water Rights  
License No. 63-10560.

Dear Ms. Skaggs,

We are disappointed with the conclusions expressed in the letter we received from the department dated March 22, 2000 concerning Trinity Springs Ltd.'s (TSL) request for a Change of Ownership on Water Right No. 63-10560. This letter is to request that the department reconsider its decision not to process our application in light of our explanation herein.

In further support, we are enclosing a copy of TSL's letter to Paradise Home Owners' Association ("PHOA") dated March 6, 2000 to supplement IDWR's review. TSL wishes this letter, which outlines the history of the license, to be made a part of the record of the department's decision.

We believe the letter from TSL to the association states the history of the license both fairly and accurately. Moreover, we point out that the letter the department received from Randy Fowers, President of the Paradise Home Owners' Association ("PHOA"), dated March 14, 2000, and subsequent to the meeting of the Board of Directors of the association, did not rebut any of the statements in TSL's March 6th letter to the association.

In support of our request for the IDWR's reconsideration, we are taking this opportunity to rebut several of President Fowers statements, as follows:

A. In the second paragraph of his letter, Mr. Fowers states PHOA objects because "various uses are so intertwined that to separate the uses in any way has a strong likelihood of fostering future confusion and misunderstanding." Two sentences later, Mr. Fowers admits: "Although we understand that the rights granted in the license for heating would not

diminish by this action, we can see no reason for the change based on the explanation provided by TSL."

TSL believes the "intertwined uses" referred to by Mr. Fowers and the association exist only in the minds of himself and the PHOA. The license in question clearly quantifies the volumes of geothermal waters allotted to heating, recreational and domestic use. Further, the IDWR's field studies and the license state that the recreational and domestic uses occur solely on Lot 38, which is owned by TSL. Neither the association nor any member has been given the privilege of entering TSL's property to make use of the geothermal water for recreational or domestic uses. Accordingly, all beneficial uses for those waters exist for the private purposes of TSL, which has been the situation since TSL purchased the property in 1991. No.

As for the heating use, the license has always separated and distinguished heating use from recreational and domestic uses and we point out TSL's application states that there is no intention to change or interrupt the heating use for the entire PHOA membership in any manner.

At the recent meeting, TSL explained to PHOA's board that the reason for the change is because in TSL's opinion some PHOA members, including Mr. Fowers, are illegally diverting geothermal waters out of the heating system, which return to TSL's pool on Lot 38, to their private hot tubs. TSL's position is that it is essential to change the license to conform to the laws and regulations of Idaho in order for TSL to fulfill its purposes, functions and responsibilities as an Idaho corporation. In this effort, TSL intends to disassociate itself from any possible illegal uses of geothermal waters and concurrent discharges by PHOA and its members and to assert its rights under the doctrine of beneficial use as recognized by the IDWR and the legislature. ?

B. TSL disputes Mr. Fowers' assertion in paragraph 3 of his letter, whereby he states the Memorandum of Understanding provides "The uses that are affirmed on the license can also be found in Section 3 of the MOU and clearly show that PHOA was intended to be the OWNER/OPERATOR as it pertains to those uses." Mr. Fowers' views are different from TSL's. TSL believes PHOA cannot prove beneficial use of the recreation and domestic uses on the license and, thus, has no legal claim to the recreational and domestic uses provided by license No. 63-10560. Paragraph 3

recognizes the parties to the agreement have uses of the geothermal waters that are individual and distinct. Such uses are to be protected by the parties. Additionally, PHOA has never performed any function other than to be the OWNER/OPERATOR of the heating system.

In truth, Paragraph 3 of the MOU recognizes previous uses of the water for PHOA and TSL, respectively, and at no place in the agreement or in negotiating the agreement was the development of private hot tubs in members homes contemplated. As stated earlier, at no place in the MOU does TSL give individual PHOA members any rights to use Lot 38 for recreational and domestic purposes. In fact, the MOU does exactly the opposite by prohibiting any new uses by either PHOA or TSL or third party members, except as specifically stated in Paragraph 3 and Paragraph 13 of the agreement.

Mr. Fowers cannot read an interpretation into the MOU which is not within the four corners of the agreement. Assuming he, as President of PHOA, supports the association's members present diversions of hot water into private hot tubs, TSL believes that such conduct constitutes a breach by the association of promises made in the MOU agreement.

C. Paragraph 4 of Mr. Fowers letter is not relevant to the issues concerning splitting the ownership of Water Rights License No. 63-10560, as disputed herein. The heating system is not an issue of dispute, nor is the association's bylaws.

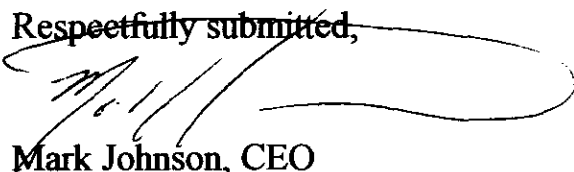
D. In Paragraph 5, Mr. Fowers unsupported assertion that "The requested change of ownership would indeed serve to diminish the value of PHOA..." is without factual support or relevant meaning and should not be considered by the IDWR in processing TSL's request. If the association is now claiming a property right or "value" for the recreational and domestic uses of geothermal waters that occur on TSL's Lot 38, it has a heavy burden under Idaho law. Importantly, the IDWR is not the proper forum for PHOA to advance non-proven property rights and/or specious arguments relating to "the value of PHOA."

Finally, Mr. Fowers misstates the fact that when the IDWR performed a field study PHOA owned Lot 38 of Paradise Subdivision. Lot 38 has never been owned by PHOA. What Mr. Fowers overlooks is the written statement

from the IDWR to Trinity on September 19, 1991, five years prior to signing the MOU, stating that "Licenses are appurtenant to where the water is used (the place of use)." This statement and others supporting TSL's efforts to properly change the ownership of the recreational and domestic uses permitted under the license were provided to the Paradise Board on March 6, 2000. Apparently, the Paradise Board has chosen to ignore their plain meaning.

In conclusion, TSL's believes that PHOA's objections to a change of ownership to split the uses in Water Right No. 63-10560 are without merit and are unreasonable. TSL's request merely brings the license into compliance with Idaho statutes and the regulations of the IDWR. See, Idaho Code 42-201, *et. seq.* For that reason, TSL requests that the Department reconsider its previous reliance on Mr. Fowers letter as a basis for denying TSL's application and proceed with splitting the ownership as requested previously.

Respectfully submitted,

  
Mark Johnson, CEO

Attachment:

Letter To PHOA, dated March 6, 2000

cc: Randy Fowers, President  
Paradise Home Owners' Association  
10071 Martindale Drive  
Boise, Idaho 83709

PHOA Board of Directors  
March 6, 2000

**COPY**

Paradise Home Owners' Association ("PHOA") Board of Directors  
c/o Randy Flowers, President of PHOA  
10071 Martindale Drive  
Boise, Idaho 83709

RE: PHOA Board Meeting of March 11, 2000; Request by Trinity Springs for  
Ownership Change to Water Right No. 63-10560; Related Use of Private Hot  
Tubs by PHOA Members

Dear Randy:

Trinity welcomes an opportunity to discuss with the PHOA Board of Directors issues related to the above reference subjects at Saturday's meeting. Accordingly, please find a written statement of Trinity's positions, which we feel may assist you and the board members in facilitating the meeting and better understanding the intentions of our company.

For purposes of clarification, we are separating issues of the controlling Memorandum Of Understanding ("MOU") between PHOA and Trinity and signed on April 4, 1996 from those of Idaho law pertaining to use of waters under the water right referenced, above.

A. Memorandum of Understanding

1. Paragraph Three of the MOU provides that existing and proposed uses of the hot water, domestic water, irrigation water and sewer facilities owned and operated by PHOA will have priority over any expanded use of such facilities by either PHOA or Trinity. [Emphasis Added.
2. The letter from PHOA's attorney, Mr. Thomas, to PHOA explaining PHOA's rights under the proposed MOU does not mention any use of hot water for private hot tubs. The MOU was subsequently revised by the entire membership, signed and accepted by over 75% of the membership.
3. Thus, Trinity believes any present use by PHOA for private hot tubs constitutes a "new and expanded use" under the MOU and cannot be expanded over the "existing" uses as described by Trinity and PHOA in the MOU at the time of the signing, namely, April of 1996.
4. In fact, if private hot tubs have been installed, Trinity's rights under the MOU to use the hot water have been diminished from the existing use of hot water by the company at the time the agreement was signed. Reading Paragraph 13 of the MOU establishes that, whether for commercial or private use, PHOA cannot grant "third party" use to its individual members. Paragraph 13 refers to Paragraph 3 by stating, pertinently:

"This paragraph shall not be construed or enforced in any manner which would restrict PHOA's right to use the hot water from the spring on the 44 acre parcel for any of the existing or proposed uses described in paragraph 3, above."

5. Trinity is an equal member of PHOA and under the MOU is entitled to protection from third party users. Trinity views private hot tub use as a "proposed use" by third parties. In fact, those PHOA members who do not have private hot tubs are entitled to this protection from expanded uses by fellow members, as well.

6. Additionally, diverting hot water into private hot tubs diminishes Trinity's beneficial use rights to the entire amount of "Recreational" use (0.96 cfs), as private hot tub use of the water diverts the flow to the pool on Lot 38 by way of discharge into PHOA's drainfield or surface discharge, if applicable (and as stated by a Grouse Creek owner at the December meeting). This is discussed in detail, below, under the Water Rights section of this letter.

7. Under the MOU and under the Water Rights License, Trinity has the power to enforce both the agreement and the state license, including a request for attorney's fees and costs, if the company prevails.

B. Water Right License No. 63-10560

Water rights pertaining to No. 63-10560 were originally issued by the Idaho Department of Water Resources ("IDWR") to PHOA on November 18, 1987, which is the established priority date for the use of the water. The rights involved established beneficial uses for heating for the homes, a lodge, cabins and a shop in Willis Carrie's Paradise Subdivision. The domestic use was for the beneficial uses in the lodge and the recreational use was for the swimming pool on Lot 38.

1. On April 30, 1991, IDWR conducted a field examination, which report established:

- a. Domestic Use - for lodge building, bathrooms, baths but not for drinking water or culinary uses.
- b. Heating - based on number of units in the subdivision for 180 days/year; and
- c. Recreational Use - water at the pool on Lot 38.

2. On September 19, 1991, IDWR wrote Trinity and stated:

- a. "Licenses are appurtenant to where the water is used (the place of use)."
- b. "Turning to Lot 38, what rights are found there? A portion of rights 63-04221, 63-10559 and 63-10560 are clearly appurtenant to Lot 38. The portion of each right attached to Lot 38 depends on the beneficial use described in the right and the percent of that use found on Lot 38 when compared to the remainder of the places of use."

c. "New appropriations for consumptive use of water that is considered tributary to the Boise River system face complications relating to existing water rights in the river basin. Essentially, any new right using such water for consumptive purposes must include a method to make up the loss to the river system to prevent injury to senior rights utilizing the river water." - The springs on lot 38 and the 44 acre parcel are considered tributary to the South Fork of the Boise River Basin.

3. On November 13, 1997, IDWR wrote PHOA and stated the conditions attached to the amended license No. 63-10560, as follows:

a. RE: First Condition. "When issuing a water right license confirming that a water right has been established, IDWR's responsibility is to confirm the beneficial use established before the proof of beneficial use statement is submitted. In most cases, a water right license cannot be issued for any new use of water developed after the proof of beneficial use is submitted" [Emphasis Added.]

b. "IDWR's field examination was conducted on November 16, 1989. The field examiner found the water being used in the lodge and swimming pool as permitted. He found water being used for heating in 33 units, including the lodge, a shop, and 31 homes. The annual diversion volumes recommended by the field examiner were based on flow rate estimates and number of units being heated."

c. Importantly, IDWR wrote about the 1997 amendment to the license that, "...you have three reasons for asking IDWR to increase the diversion rate and annual volume for heating. First, you believe there was an error in IDWR's calculations used to estimate the amount of water beneficially used. Second, the homes being heated are larger than used in IDWR's original estimates. And third, according to measurements by McClure Engineering, the springs from which you divert produce a combined rate of flow water of about 0.96 cfs.

"The first two reasons warrant new calculations - please see the attached worksheet. Based on the new calculations, I propose raising your diversion rate for heating to 0.64 cfs and your annual volume for heating to 152 acre feet. As I stated before, the licensed diversion rate cannot exceed the diversion capacity developed by the time of the field examination. Changes you [PHOA] have made in pumping capacity since 1989 cannot be included in this license. Therefore the diversion rate for heating and the total diversion rate must be limited to 0.64 cfs because that is the maximum capacity of your system in 1989 as estimated by a field examiner, who did not have the aid of a measuring device. It is worth noting, however, that if you apply McClure's engineering report to the 43 homes, 11 cabins, 1 shop and 1 lodge heated under your license, you come up with a figure very close to 0.64 cfs.

"While the pumps in place at the time of the field examination result in a limitation on the amount of water that can be licensed for heating purposes, I see no such limitation for

the recreation use. If I understand the field examiner's report correctly, the entire flow of both spring sources is ultimately diverted to the swimming pool, with some of the water being used for heating along the way. If we use the McClure report flow measurements, a total of 0.96 cfs (430 gpm) is apparently diverted to the swimming pool for recreational use. I will recommend that water right license 63-10560 show 0.96 cfs for recreation purposes." [Emphasis Added.]

C. Discharges From Private Hot Tubs

Agencies of the State of Idaho have advised Trinity, as follows:

1. On November 29, 1999, IDEQ advised that "any discharge into Grouse Creek requires a permit from either DEQ or EPA, depending on who owns the discharge pipe, and;
2. Any discharge to land or "subsurface" requires a permit from either DEQ or the health department, or both.

Summary of Trinity's Positions Before the PHOA Board of Directors

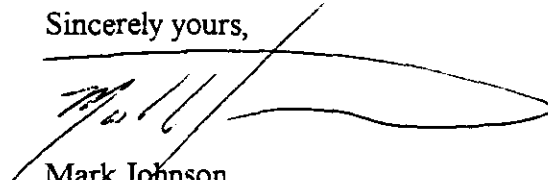
1. Trinity's position is that the beneficial use was established for the Willis Carrie's Paradise Subdivision at the 1987 priority date and is supported by IDWR's Field Exam shortly after that. No additional use can be established under the license.
2. Trinity is protected by the MOU (paragraph 3) from any new or expanded use by individual members for private hot tubs with hot water from springs on both Lot 38 and the 44 acre parcel
3. Paragraph 13 of the MOU in reference to Paragraph 3 protects Trinity from any new diversion of hot water.
4. Although "heating" is not presently defined by IDWR, calculations for the license are determined by IDWR's formula, which includes square footage of buildings, insulation factors, temperature of ambient air, water temperature and number of days. License No. 63-10560 is calculated by IDWR for "space heating" for not more than 180 days per year. At no place in the formula is there a provision for consumptive use, or any use by individual PHOA members for private hot tubs.
5. Language in the License refers to the use of hot water for "space heating," and at no point in either the license or in correspondence between PHOA and IDWR is the use of private hot tubs contemplated. Additionally and in support, IDWR has written that each homes can use not more than 5 gpm under the heating portion of the license and that such use is conditioned under the license as "non-consumptive," as the entire amount is eventually returned to the pool on Lot 38.

PHOA Board of Directors  
March 6, 2000

6. The license provides the entire amount of hot water (0.96 cfs) is to be returned to the pool on Lot 38 for recreation use, thus any private hot tub use that diverts this flow is unlawful under the license. PHOA can prove no beneficial use of that water, as the complete use for recreation (0.96 cfs) is appurtenant to Lot 38, which is owned by Trinity.
7. Appropriate discharge permits for adulterated hot water from private tubs must be obtained by either PHOA or individual members. In addition, any use that reduces the total amount of water from the Boise River System requires that compensating amounts be placed into the system for downstream users with senior rights. PHOA or individual members would have to secure replacement water for any contemplated new consumptive uses.
8. Under the MOU and Idaho law, there is no basis for PHOA objecting to the splitting of the existing license between PHOA and Trinity based on Trinity's sole beneficial use of appropriated hot water for domestic use and recreation use on Lot 38.
9. PHOA's use of hot water is limited only to heating, however heating may be subsequently defined, and PHOA members cannot divert hot water from Trinity's right for the entire amount of hot water returning to the swimming pool on Lot 38, i.e., 0.96 cfs.

We appreciate your consideration of the above facts and look forward to seeing you at the meeting on March 11, 2000.

Sincerely yours,



Mark Johnson  
CEO

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Shelly Keene, Water Rights Supervisor  
Pamela Skaggs, Sr. Water Rights Analyst



## 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

March 22, 2000

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Trinity Springs Ltd.  
Mark Johnson  
P.O. Box 1630  
Ketchum, ID 83340

RE: Notice of Change of Water Right Ownership  
for Water Right 63-10560

Dear Mr. Johnson:

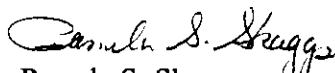
The Department received the above referenced change of ownership form dated 12-20-99. In order to process the change of ownership, I requested additional information from both you and the current right holder of record, Paradise Homeowner's Association (PHOA)

I received the additional information requested from you on 01-20-00. On 03-20-00, I received a letter from Randy Fowers, President of PHOA, and copy of the Memorandum of Understanding (MOU) between Trinity Springs Ltd. and PHOA dated 04-19-96.

After reviewing the information provided, it appears that the intent of the MOU is to maintain a single ownership for the association of users. The Department will not process the change of ownership. The information and your request will be made part of the file for future reference. I have also enclosed a copy of the letter from Randy Fowers for your records.

If you require additional information regarding this matter, please call me directly at (208) 327-7943, e-mail me at [pskaggs@idwr.state.id.us](mailto:pskaggs@idwr.state.id.us) or contact me by mail, and I will be happy to assist you.

Sincerely,

  
Pamela S. Skaggs

Sr. Water Rights Agent

Enclosure

MICROFILMED  
APR 14 1999

STATE OF IDAHO  
ID. DEPARTMENT OF WATER RESOURCES  
**NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are on the back of this page.  
Incomplete forms will be returned.

1. Water Right Number(s) #63-10560  
Adjudication Claim Number(s) \_\_\_\_\_

2. The following **REQUIRED** information must be submitted with this form.

A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

AND

B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s)

PARADISE HOMEOWNERS' ASSN.

4. New Owner/Claimant(s)

TRINITY SPRINGS LTD.

New Mailing Address

P.O. BOX 1630  
Name connector (Check one): [ ] AND, [ ] OR, [ ] AND/OR

City, State and ZIP Code

KETCHUM, ID 83340

New Telephone Number

(208) 726-7734

5. Date you acquired the property Nov., 1991

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated N/A Number and type of stock N/A

Diversion rate in CFS            Number of homes            Other uses             
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s)

  
Mark Johnson, President & Treasurer

Date 12-20-99

Date \_\_\_\_\_

8. (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)  
For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

MICROFILMED

JUN 16 2000

## INSTRUCTIONS

This form has been prepared to assist new owners of property to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. Section 42-248 requires certain property holders to notify the Department of Water Resources (IDWR) of any change in mailing address or ownership of all or part of a water right record on file with IDWR. Section 42-1409(6) provides that new property owners must notify IDWR of any change in ownership of a water right during an adjudication of water rights, and, if a required claim for the water right has not been filed, to file the needed claim.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. If you would like any of these brochures, or if you have questions about completing this form, please contact your nearest IDWR office or call 1-800-451-4129.

If you need additional space to describe or explain any of the items on the form, please attach additional sheets to the form as you may require.

1. If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). Please enter these number(s) at Item 1. If you or the seller believe there are water rights for the property but the numbers are unknown, you may wish to call IDWR or come into an office of IDWR for assistance in identifying the water rights for the property in question. If claims for the rights are required, and have not been filed, IDWR will so advise you.
2. The information described at Item 2 is required, since IDWR cannot process the requested change without documentation of ownership. The preferred types of documentation are shown; contact IDWR if you have difficulty obtaining this information. Do not obtain a new survey for purposes of this form before contacting IDWR.
3. Please provide the name and address of the former owner of the water right and/or adjudication claim at Item 3.
4. The name, mailing address, and telephone number of the new owner(s) is entered at Item 4. Please indicate the relationship between multiple owners by using the connector "and", "or" or "and/or". If an "and" is used, all parties must sign this form. If an "and/or" or "or" is used, all parties may sign, however only one of the named parties is required to sign.
5. At Item 5, please provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.
6. If the property you have purchased is only a portion of the property owned by the former owner/seller, you may be purchasing only a portion of the total water right held by the seller. This means the water right held by the seller may be "split" to provide your share of the right in question. Be sure to include a description of the portion of the water right you have purchased at Item 6.

Please provide as much detail as possible concerning your water right: include the number of homes, irrigated acreage if more than 1/2 acre is irrigated, type and number of stock if your right is for stockwater, etc. In the absence of information to the contrary, IDWR will assume the intent is to split the rights *proportionately*.

7. The new owner(s) must sign the form in the space(s) provided at Item 7. Corporations and other organizations must submit a list of directors or officers demonstrating the authority of the director or officer to sign the form.
8. There is no filing fee. When complete, you should retain a copy and return the original of the form to the IDWR office nearest you:

**IDWR Western Region, 2735 Airport Way, Boise, ID 83705-5082 (208) 334-2190**

**IDWR Southern Region, 222 Shoshone St. E., Twin Falls, ID 83301-6105 (208) 736-3033**

**IDWR Northern Region, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, ID 83814-2615 (208) 769-1450**

**IDWR Eastern Region, 900 N Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 (208) 525-7161**

## Trinity Springs Ltd.

### Corporate Officers and Directors – January 17, 2000

#### Corporate Officers

|                    |                         |
|--------------------|-------------------------|
| Mark Johnson       | President and Treasurer |
| Robert Brewer      | Vice President          |
| Suzanne M. Kwapich | Secretary               |

#### Corporate Directors

William D. Johnson  
Mark Johnson  
Jock Bell  
Robert Burns  
Andre Carothers

MICROFILMED  
APR 10 2000

PARCEL NUMBER  
RPO0038001038AA  
89,094  
314,274

| 1ST HALF DUE |          | 2ND HALF DUE |          |
|--------------|----------|--------------|----------|
| TAX          | 2,455.53 | TAX          | 2,455.53 |
| LATE         |          | LATE         |          |
| INT          |          | INT          |          |
| COST         |          | COST         |          |
| TOT          |          | TOT          |          |

|      |          |
|------|----------|
|      | FULL DUE |
| TAX  | 4,911.06 |
| LATE |          |
| INT  |          |
| COST |          |
| TOT  |          |

|         |         |
|---------|---------|
| TOT MV  | 403,368 |
| TOT ACS | 41.940  |

TRINITY SPRINGS LTD  
P O BOX 1630  
KETCHUM ID 83340

LOT 36 LESS TAX 7  
BLK 1  
WILLIS CARRIES PARADISE SUB

| TAXING DISTRICT | RATE        | AMOUNT   |
|-----------------|-------------|----------|
| STATE           | .0000000000 |          |
| COUNTY          | .003807324  | 1,535.74 |
| SCHOOL #193     | .005544173  | 2,236.34 |
| MTN HOME HWY    | .000796045  | 321.10   |
| COUNTY FAIR     | .000055963  | 22.56    |
| VETERANS MEM    | .000030991  | 12.50    |
| HOSPITAL DIST   | .001269494  | 512.06   |
| DISTRICT TOTAL  | .011503990  | 4,640.30 |
| SOLID WASTE FEE |             | 255.76   |
| FIRE CHARGE     |             | 14.50    |
| FPA CHARGE      |             | .50      |
| AMOUNT DUE      |             | 4,911.06 |

JAMES P HAYDON  
ELMORE COUNTY ASSESSOR  
150 S 4TH E STE 2  
MOUNTAIN HOME ID 83647

## ASSESSMENT NOTICE

RETURN SERVICE REQUESTED

| CATEGORY DESCRIPTION | COUNT | PERCENT |
|----------------------|-------|---------|
| 1.00                 | 1     | 100.00  |

|    |      |     |     |
|----|------|-----|-----|
| 15 | RUR  | SUB | RES |
| 16 | RUR  | SUB | COM |
| 37 | BLDG | RES | SUB |
| 38 | BLDG | COM | SUB |

| Tax Code   |    | 4-00 | MARKET VALUE |  |
|------------|----|------|--------------|--|
| LOTS/ACRES |    |      |              |  |
| 1.000      | AC |      | 14,000       |  |
| 40.940     | AC |      | 75,094       |  |
|            |    |      | 121,651      |  |
|            |    |      | 192,623      |  |

Taxes are based on the valuation listed on this statement.

FOR ANY QUESTIONS  
PLEASE NOTIFY THE  
ASSESSORS OFFICE BEFORE

JUNE 28, 1999

TOTAL: 41.940 403,368 PARCEL # BP 00038001038A A

LOT 38 LESS TAX 7  
BLK 1  
WILLIS CARRIES PARADISE SUB

PROPERTY ADDRESS

|        |                     |                     |
|--------|---------------------|---------------------|
|        | <u>PRIOR YEAR</u>   | <u>CURRENT YEAR</u> |
| VALUE: | 395,360             | 403,368             |
|        | <u>PRIOR YEAR</u>   | <u>ESTIMATED</u>    |
| TAX:   | 5,506.85            | 5,599.60            |
|        | DO NOT PAY ESTIMATE |                     |

Man To:

TRINITY SPRINGS LTD  
P O BOX 1630  
KETCHUM ID 83340

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

1999  
8219

See back for details.

DO NOT PAY ESTIMATE

11-11-68

2ND HALF

|            |          |          |            |          |
|------------|----------|----------|------------|----------|
| AMOUNT DUE | 2,455.53 | 4,911.06 | AMOUNT DUE | 2,455.53 |
|------------|----------|----------|------------|----------|

ELMORE COUNTY  
RPO0038001038AA  
4-00

| LATE | LATE |
|------|------|
| INT  | INT  |
| COST | COST |
| TOT  | TOT  |

DELINQUENT IF NOT PAID ON OR BEFORE **DECEMBER 20, 1999**

DATE PAID  
PAID BY

CHECK #  
MICROFILMED  
CASH

APR 12 2008

ELMORE COUNTY  
RP00033001033AA  
4-00

LATE  
INT  
COST  
TOT

DELINQUENT IF NOT PAID ON OR BEFORE

DATE PAID  
PAID BY

JUNE 20, 2000  
CHECK #  
CASH

MAR 20 2000

Department of Water Resources

March 14, 2000

Pamela S. Skaggs, Sr. Water Resources Agent  
State of Idaho Department of Water Resources

Dear Ms. Skaggs

In reply to your request for comments on the proposed ownership change on the Domestic and Recreational uses granted under license number 63-10560 by PHOA, please accept the following.

The Board of directors of PHOA has meet and reviewed this request. They passed a resolution to oppose the change requested by Trinity. PHOA feels that the various uses granted by the license are so intertwined that to try to separate the uses in any way has a strong likelihood of fostering future confusion and misunderstanding. This is easily understood by considering that the recreational use granted in the license is in fact the total of all the water available from the source. Although we understand that the rights granted in the license for heating would not diminish by this action, we can see no reason for the change based on the explanation provided by Trinity.

We strongly believe that PHOA being recognized as the owner on the license was not an error on the part of any of the parties involved, but the result of much effort and time being invested by PHOA and Trinity that resulted in an agreement referred to as the Memorandum of Understanding "MOU" (copy attached). This legally executed document attempted to settle disputes between PHOA and Trinity of which the hot water was one of the major items. The uses that are affirmed on the license can also be found in section 3 of the MOU and clearly show that PHOA was intended to be the OWNER/OPERATOR as it pertained to those uses.

PHOA by its bylaws is charged with the maintenance and operation of the hot water system that supplies this resource to all of the members of the association for the uses allowed by our licenses and permits. These systems are common to all and would be difficult to separate into uses for one member. Trinity is a member of the association and their rights are certainly defined and protected by the association bylaws as well as the MOU between PHOA and Trinity.

The requested change of ownership would indeed serve to diminish the value of PHOA and in light of that, the Board feels that it must take any and all action available to them to ensure that the change does not take place. We can see no difference between this request and a request that might come from any other property owner that is a member of PHOA and receiving services supplied by PHOA under this license. As a practical matter, IWDR affirmed that PHOA was indeed the owner when it preformed the field study and issued the license to PHOA.

Sincerely,



Randy Fowers  
President, PHOA

MICROFILMED  
APR 18 2000

## MEMORANDUM OF UNDERSTANDING

Former Chief Justice Robert Bakes conducted a mediation of the dispute between Trinity Springs, Ltd. ("Trinity") and Paradise Homeowners Association ("PHOA") on April 4, 1995. Participating in the mediation, on behalf of Trinity were Mark Johnson, president, and Jim Speck, attorney, and on behalf of PHOA were Earl Jackson, president and a director, Brad Christiansen, a director, Miriam Bermeosolo, secretary and a director, Norm Garlington, a committee member, and Bruce Thomas, attorney. At the conclusion of the mediation in a joint session, the parties agreed as follows:

1. The parties agree the Class B Membership of PHOA shall be appurtenant to Lot 38, with only one vote. Assessment for Lot 38 shall be made in accordance with paragraph 11, below. In addition, the parties acknowledge that Trinity owns two other lots in the subdivision, and so Trinity has two Class A Memberships and votes by reason of its ownership of these lots.

2. No changes may be made in the organizational documents (Articles of Incorporation, Bylaws, Declaration of Covenants, Conditions and Restrictions, and Declaration of Rights and Responsibilities) that adversely affect Lot 38, or its owner, without first obtaining the written consent of the owner of Lot 38.

3. The following existing and proposed uses of the hot water, domestic water, irrigation and sewer facilities owned and operated by PHOA will have priority over any expanded use of such facilities by either PHOA or Trinity:

Service to the Grouse Creek Subdivision lots (7 lots) for hot water, domestic water, irrigation and sewer disposal.

Service to three (3) hook ups on the 28 acre parcel, formerly owned by Paradise Inn, Inc., in accordance with the Settlement Agreement between PHOA and Paradise Inn (domestic water, hot water, sewer and irrigation).

Service to one (1) residence located on the Elmer Maus property (domestic, hot water, and irrigation).

Service to one (1) residence, i.e. the mobile home located on the Wagontown property (hot water, domestic water and irrigation).

Service to the residential lots in Paradise Subdivision (hot water, domestic, irrigation and sewer).

Service to current uses by Trinity on Lot 38 (hot water, domestic, irrigation and sewer).

The following new uses by PHOA of the hot water, domestic water, irrigation and sewer facilities

owned and operated by PHOA will have priority over any expanded use of such facilities by Trinity:

Service to five (5) residences which may be constructed on the 44 acre parcel (domestic water, hot water, sewer and irrigation).

Service for a hot water swimming pool and/or recreational center, which may be constructed for use only by the members of PHOA, their families and guests who pay for the construction and operation of the pool/recreational center (hot water, domestic water, irrigation and sewage). This facility will not be available for use by any guest, employee or other individual who is staying or working at any facility located on Lot 38.

Service for two (2) residences which may be constructed on the western portion of Lot 16 in Paradise Subdivision (domestic water, hot water, sewer and irrigation).

4. PHOA will continue to supply the mobile home located on the Wagontown property with hot water and domestic water in quantities sufficient to service a single family residence and with irrigation water in current quantities at a charge of \$25.00 per month, beginning January 1, 1995, effective retroactively. If the current amount of assessment for the residential lots in Paradise Subdivision is increased, this monthly charge to the Wagontown property may be increased by PHOA by the same percentage increase as the assessments for such residential lots.

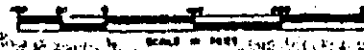
5. Trinity, as the Class B Member, shall have the right to appoint one (1) director to serve on the PHOA Board. Trinity may also designate an alternate or substitute to serve, in the event the designated individual is unable to attend a meeting.

6. If the hot water from the upper spring located on the 44 acre parcel is not adequate to supply the current buildings on Lot 38, the lots in Paradise Subdivision located east of Lot 38, the Grouse Creek lots, the proposed swimming pool and/or recreation center, the three hook-ups for the 28 acre parcel, ~~and the storage building~~ <sup>my house</sup>, then PHOA will have access to and will be able to use hot water from the lower springs, located under the pool on Lot 38 to provide hot water for these uses. Trinity will grant to PHOA the easements necessary to access these springs for such diversion. The location of such easements shall be subject to approval by Trinity, which approval shall not be unreasonably withheld. PHOA shall pay any cost or expense related to the construction of such diversion works. In the event the total of the flow from the lower springs located under the pool on Lot 38 and the flow from the upper spring on the 44 acre parcel diminishes so that there is insufficient flow to fill all of the hot water uses described in paragraph 3, above, the water supplied to each use by PHOA shall be reduced *pro rata* according to the amounts of the water rights for each such use.

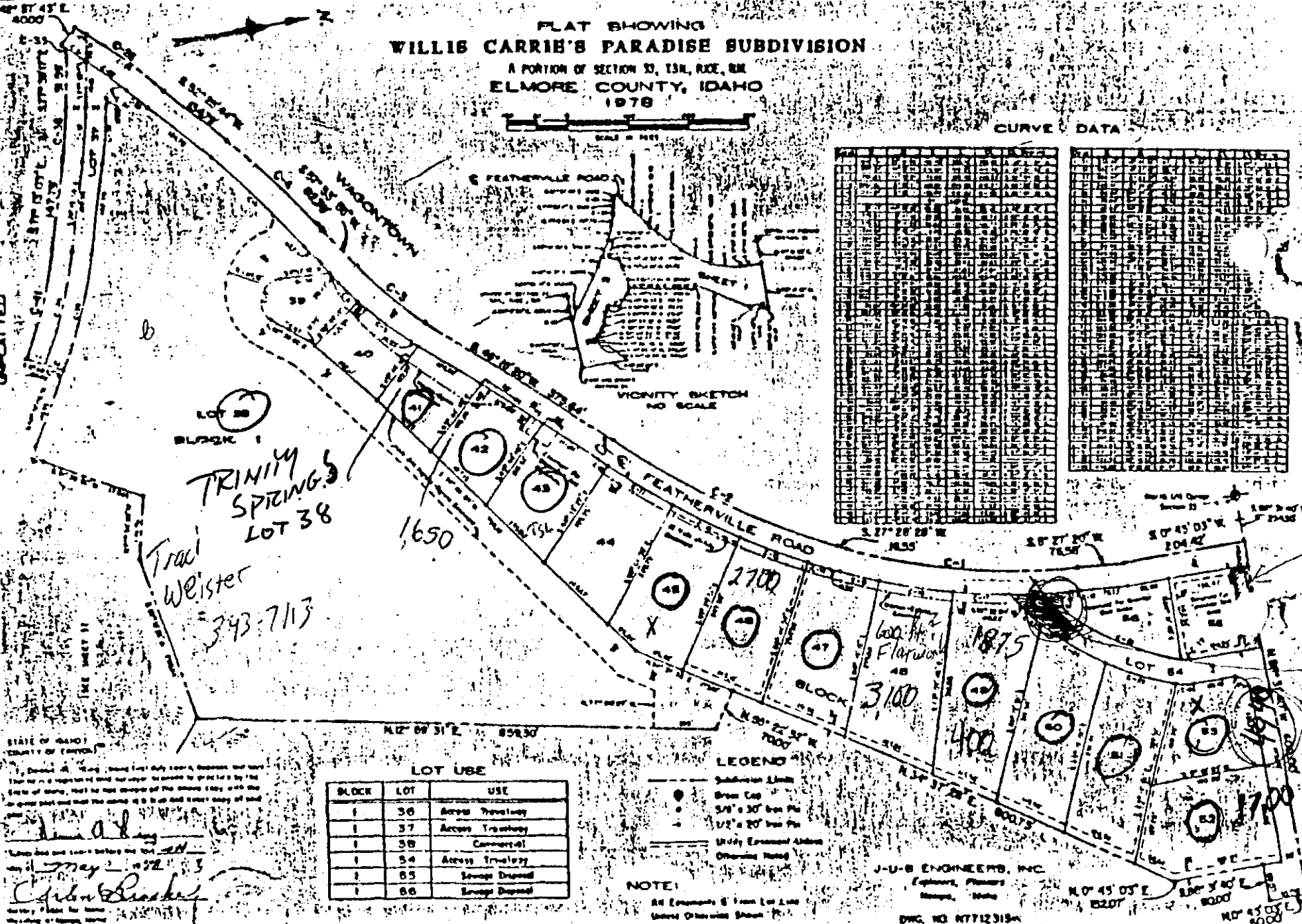
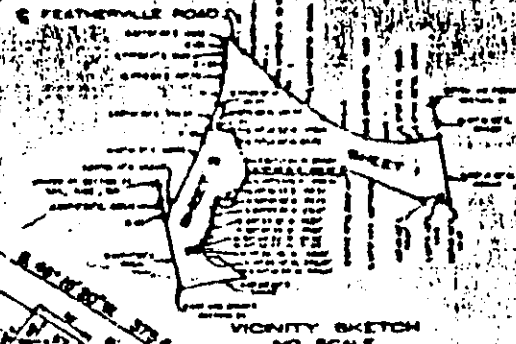
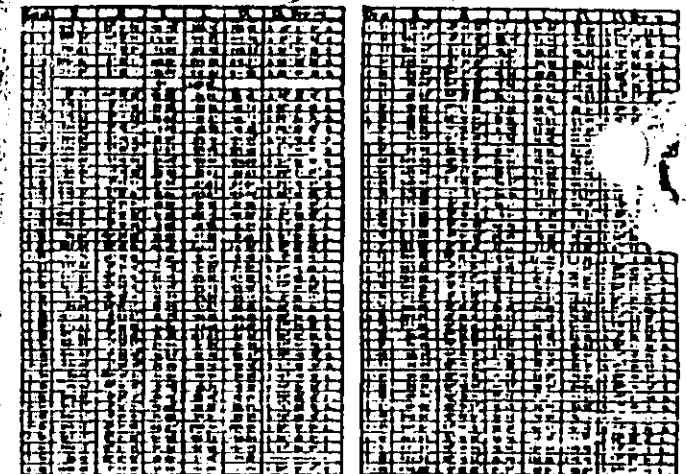
7. Trinity will confirm the easement from the lower springs across Lot 38 for hot water and any other utility services to the lots in Paradise Subdivision located north of Lot 38. PHOA may also utilize this easement and hot water from the lower springs to supply the residential hook-ups for the Elmer Maus property and the mobile home located on the Wagontown property.

EXHIBIT A

FLAT SHOWING  
WILLIS CARRIE'S PARADISE SUBDIVISION  
A PORTION OF SECTION 33, T34N, R2E, 8W  
ELMORE COUNTY, IDAHO  
1978



CURVE DATA



STATE OF IDAHO  
COUNTY OF TETON

I, Donald A. King, being first duly sworn, depose and say that I am a registered land surveyor licensed to practice by the State of Idaho, that I am the owner of the plat shown on the above plat and that the same is a true and correct copy of the original plat on file in my office.

Subscribed and sworn to before me on May 1, 1978.

\_\_\_\_\_  
Notary Public for Idaho

LOT USE

| BLOCK | LOT | USE              |
|-------|-----|------------------|
| I     | 36  | Access Tractuary |
| I     | 37  | Access Tractuary |
| I     | 38  | Commercial       |
| I     | 54  | Access Tractuary |
| I     | 65  | Storage Deposit  |
| I     | 66  | Storage Deposit  |

LEGEND

- Subdivision Limits
- Survey Cap
- 5/8" x 30" Iron Pin
- 1/2" x 20" Iron Pin
- Utility Easement Address
- Other Road

NOTE:  
All Easements 5' from Lot Line  
Unless Otherwise Shown

J-U-B ENGINEERS, INC.  
Engineers, Planners  
Surveyors, Idaho

DATE: MAY 1, 1978  
DRAWN BY: RTT/23134

8. Trinity will confirm easements across Lot 38 for all existing PHOA utilities.

9. PHOA will grant Trinity easements to the springs located on the 44 acre parcel for the diversion of water under a junior permit, described below. The location of such easements shall be subject to approval by PHOA, which approval shall not be unreasonably withheld.

10. PHOA will not protest any application by Trinity for diversion of hot water from the springs on Lot 38 and/or the 44 acre parcel, either at the springs or at the outflow of any of the hot water uses described in paragraph 3, above, so long as the proposed diversion by Trinity does not diminish the water available from such springs under the water rights providing the hot water services described in Paragraph 3. Trinity shall pay any cost or expense related to the construction, maintenance and operation of such diversion works.

11. The owner of Lot 38 shall only be required to pay assessments to PHOA for the cost of providing services, including maintenance, repair and replacement, for hot water, domestic water, irrigation water and sewer, together with a fair proration of the administrative expenses related to these services. The assessment for Lot 38 shall be \$408.00 per month, effective retroactively to January 1, 1995. The parties agree the basis for this amount is an allocation of direct and general and administrative expenses of 30% to Lot 38 and 70% to the other lots receiving any of such services. This initial assessment for Lot 38 may be increased by PHOA in accordance with the organizational and subdivision documents, provided that the assessments for the residential lots in Paradise Subdivision are increased by the same percentage. The parties shall review annually this allocation (30% to Lot 38 and 70% to the other lots), when the annual financial statement for PHOA is prepared. If there is a significant change in this 30/70 allocation, then the parties shall agree upon a new allocation and the assessments for Lot 38 shall be adjusted in accordance with the new allocation. If the parties are unable to reach an agreement upon any subsequent reallocation of such assessments, the issue shall be submitted to mediation upon approval of both parties. If mediation is unsuccessful, either party may pursue any remedy available to it under the laws of the State of Idaho.

12. In order to protect and preserve the residential, rural and aesthetic qualities and character of Paradise Subdivision while at the same time allowing Trinity to develop commercial use of the hot water springs, the following restrictive covenants shall be recorded in accordance with this Memorandum of Understanding:

(a) A covenant running with the land for the benefit of Lot 38 and Trinity shall be recorded on the 44 acre parcel owned by PHOA prohibiting the use of the 44 acre parcel for (i) the capture, sale or use of water from hot water springs for any purpose other than those set forth in paragraph 3, above, and (ii) the operation of a resort.

(b) A covenant running with the land for the benefit of the other lots in the Paradise Subdivision and PHOA shall be recorded on Lot 38 restricting the use of Lot 38 as follows: (i) no manufacturing activities will be permitted on Lot 38; (ii) the construction or installation of any new buildings or other structures on Lot 38 which adversely and materially affect Paradise

Subdivision, must first be approved in writing by PHOA, which approval shall not be unreasonably withheld. The restoration or repair of the buildings or other structures situated on Lot 38 as of the date of this Memorandum, or the replacement of any such building or structure with a new building or structure of approximately the same size and design and to be used for the same purpose, shall not require the prior approval of PHOA. In addition, the construction, maintenance, repair or replacement of diversion works to divert water from the hot water springs pursuant to the new applications for water rights as provided by paragraph 10, above, shall not require the prior approval of PHOA. Trinity further agrees to maintain Lot 38 and the buildings thereon in a condition that will protect and preserve the residential, rural and aesthetic qualities and character of Paradise Subdivision.

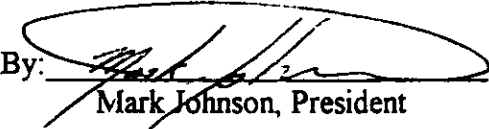
13. Except for those existing and proposed uses described in paragraph 3, above, PHOA shall not use, nor grant to any third party rights of access to or use of, the water from the hot water springs on the 44 acre parcel for any commercial purpose, either at the springs or at the outflow from any of the permitted hot water uses described in paragraph 3, above. This paragraph shall not be construed or enforced in any manner which would restrict PHOA's right to use the hot water from the springs on the 44 acre parcel for any of the existing or proposed uses described in paragraph 3, above.

14. The parties shall execute such further instruments and documents as may be reasonably necessary to put into effect the terms, provisions and intents of this Memorandum including, but not limited to, a formal, binding agreement setting forth all of the terms and conditions of the settlement of their dispute.

15. This Memorandum shall become effective and binding upon, and inure to the benefit of, the parties upon the execution of the Memorandum by both parties. In the event that any provision of this Memorandum is deemed to be invalid by reason of the operation of any law, or by reason of the interpretation placed thereon by any court or other governmental body, this Memorandum shall be construed as not containing such provision and the invalidity of such provision shall not affect the validity of any other provision hereof, and any and all other provisions hereof which otherwise are lawful and valid shall remain in full force and effect.

This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original.

Dated: ~~December~~ *April* ~~1995~~ *19, 1996*  
TRINITY SPRINGS, LTD.

By:   
Mark Johnson, President

PARADISE HOMEOWNERS ASSOCIATION, INC.

By: Norman Garlington  
Norman Garlington, President

MICROFILMED

RECEIVED

MAR 6 . 2000

Department of Water Resources

David Smith  
3011 Polk Ave.  
Ogden, UT 84403  
435-863-8349  
February 29, 2000

Mr. Shelly Keen  
Water Rights Supervisor  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098

Mr. Keen:

This is in reference to the attached a Notice of Change of Water Rights Ownership and cover letter sent to you from Trinity Springs (Trinity) dated 12-20-99 and 12-21-99 respectively. Allow me to make a few comments on the cover letter.

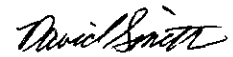
Paragraph 1, last sentence, states, "The request ... is intended to correct ownership pursuant to beneficial use and actual use by Trinity Springs, etc, etc." This statement is incorrect on its face. The clear intent of Trinity's Notice is not to *correct*, but rather, to *transfer* ownership from the present owner, Paradise Homeowners Association (PHOA), to Trinity.

Paragraph 2, sentence 2, states, "In fact, the beneficial uses of the waters for domestic and recreational uses under the cited permit [*sic*] are uses of Trinity and not those of PHOA." This statement is also incorrect. The heating and domestic uses of the cited right are clearly associated with PHOA, and the homes that are part of PHOA. The recreational uses are also associated with the uses for the mentioned homes, including Trinity's property as a PHOA member. PHOA currently uses all of the water of its water rights. PHOA's members' use of the water is determined under PHOA's internal procedures, which are legally-recorded documents complying with applicable Idaho State laws.

The relationship between PHOA and Trinity that exists under the subject water right license, No. 63-10560, is the same as exists under the Memorandum of Understanding (MOU) between PHOA and Trinity, dated April 19, 1996 by Mark Johnson, President, PHOA, and by Norman Garlington, president, PHOA, and ratified by the PHOA membership. This MOU clearly defines that all of the subject water flows belong to PHOA, for the uses mentioned in PHOA's existing water right license: heating, domestic, recreation. Naturally, there are water flows under PHOA's existing water right which Trinity, a PHOA member, uses as a member of PHOA alongside other PHOA members. Trinity is essentially trying to convert its use of water as a PHOA member, into an independent and equal water right for Trinity's sole benefit.

Issuance of a license to Trinity, as Trinity's Notice seeks, with equal priority to the license granted to PHOA, for the same flow volumes, from the same sources as are currently beneficially diverted by PHOA under the existing license, would result in severe harm to the lawful licensee of those rights, PHOA, and would result in a traverse by Trinity upon PHOA's existing water rights.

Sincerely,

  
David Smith  
An Owner, PHOA

MICROFILMED

APR 18 2000

December 21, 1999

# TRINITY

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Mr. Shelly Keen  
Water Rights Supervisor

RE: Water Right License 63-10560; Request for Change in Ownership

Dear Mr. Keen:

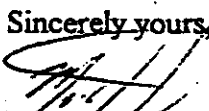
Please find enclosed a completed form of the State of Idaho Dept. of Water Resources requesting a change in ownership as reflected currently in Water Right License 63-10560. The intention of the change is to correct an existing error in the stated ownership of the right. The request is not intended to increase any appropriation of state waters, but is intended to correct ownership pursuant to beneficial use and actual use by Trinity Springs Ltd. ("Trinity"), an Idaho corporation.

In December, 1997, the department issued the license to Paradise Homeowners Assn. ("PHOA") Inc, HC 87, Box 410, Mountain Home, Idaho for the use of geothermal waters for heating, domestic and recreational purposes. In fact, the beneficial uses of the waters for the domestic and recreational uses under the cited permit are uses of Trinity and not those of the PHOA. Accordingly, Trinity is attempting to correct the error and herein requests that the company be issued a license (with the same priority) for that portion of 63-10560 pertaining to domestic and recreational use of the appropriated waters approved previously by the department.

Trinity, as a member of PHOA, believes those waters appropriated and used for non-consumptive space heating pursuant to 63-10560 should not be disturbed.

I regret any inconvenience to the department in correcting this error and if I may answer any questions pertaining to the correction requested, please call me.

Sincerely yours,

  
Mark Johnson, CEO

Enclosures

cc: Randy Flowers, President  
Paradise Homeowners Assn., Inc.  
10071 Martindale Drive  
Boise, Idaho 83709

CORPORATE OFFICE  
P.O. Box 1645  
225 South Main Street  
Ketchum, Idaho 83340  
T 208.726.7734  
F 208.726.3015  
E tsprings@micron.net

SPRING SOURCE  
HC 87, Box 390  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2363  
F 208.653.2391  
E tsplnt@micron.net

PARADISE RESORT  
HC 87, Box 400  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2434  
F 208.653.2391  
E tsplnt@micron.net

MICROFILMED

APR 18 2003

STATE OF IDAHO  
IDAHC DEPARTMENT OF WATER RESOURCES  
**NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are on the back of this page.  
Incomplete forms will be returned.

1. Water Right Number(s) #63-10560  
Adjudication Claim Number(s) \_\_\_\_\_
2. The following REQUIRED information must be submitted with this form.
  - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.  
AND
  - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)  
OR
  - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant(s) PARADISE HOMEOWNERS' ASSN.
4. New Owner/Claimant(s) TRINITY SPRINGS LTD.  
New Mailing Address P.O. BOX 1630  
City, State and ZIP Code KETCHUM, ID 83340  
New Telephone Number 208, 726-7734  
Date you acquired the property NOV., 1991
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.  
Number of acres actually irrigated N/A Number and type of stock N/A  
Diversion rate in CFS \_\_\_\_\_ Number of homes \_\_\_\_\_ Other uses \_\_\_\_\_  
cubic feet per second  
If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner/Claimant(s) [Signature] Date 12-20-99  
Date \_\_\_\_\_
8. (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)  
For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

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FEB 23 2000

Department of Water Resources

February 17, 2000

Dear PHOA Board Member,

The board is planning to meet on March 11, 2000 at the Paradise Lodge in Pine. The meeting will start at 10:30 A.M. The agenda of the meeting will include the following items:

1. Sale of PHOA property along lot 54 to adjoining property owners. Property owners will be asked to attend and Earnest Money Agreements will be ready for their signatures.
2. Trinity's request to IDWR to have ownership changed on License 63-10560 to their name for domestic and recreational uses identified on the license.
3. Review of response from Trinity on the cost of having them perform the water tests on the cold water wells for PHOA.
4. Review letter from Grouse Creek Cabins, Inc. that the board reconsider their water and sewer fees.
5. Review letter from Central District Health Dept., requiring PHOA to monitor water quality parameters. The State of Idaho requires that any source for drinking water less than 200 feet from surface water is to be evaluated as a potential GWUDI. (ground water under the direct influence of surface water)
6. Bowman Plumbing Bill

Regards,  
Judy McBride

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APR 1 1999

Paradise Homeowners Assoc.  
HC 85, Box 139 B  
Bruneau, Idaho 83604



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

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

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

January 26, 2000

DIRK KEMPTHORNE  
GOVERNOR

Paradise Homeowners Assn. Inc.  
C/O Randy Fowers, President  
10071 Martindale Dr  
Boise, ID 83709

KARL J. DREHER  
DIRECTOR

RE: Proposed Change of Ownership of a part of Right 63-10560 by Trinity Springs Ltd.

Dear Mr. Fowers:

I am writing you in regard to the requested change in ownership of a portion of Right 63-10560 by Trinity Springs Ltd. I previously forwarded a copy of my January 3, 2000 letter requesting additional information from Trinity Springs. I have now received the necessary documentation to clarify ownership of the property (Lot 38, Block 1 of Willis Carrie's Paradise Subdivision) and am now requesting a comment letter from PHOA regarding this ownership split.

I am enclosing a copy of the second letter I received from Mark Johnson regarding the extent of use of water on Lot 38. Please specifically agree or disagree with the uses Trinity has identified on their property. They are proposing to split the right and identify the entire domestic and recreation use under their portion of the right.

Also, since the right was developed under an association, we want to provide you an opportunity to provide any documentation of restrictions of purchase, covenants, bylaws etc. that would prohibit the division of the association water right by individuals of the association. If you have no such restrictions, regarding the domestic and recreational uses please provide a statement to that effect.

I appreciate your time and efforts in this matter. The splitting of the water right by ownership does not authorize any change to the system in any manner. The water will continue to be used in the combined system, providing for the heating of homes first when required and then recreational use. Those times that heating is not necessary the water will be fully available for domestic and recreation use as authorized under this right.

Sincerely,

Pamela S. Skaggs

Sr. Water Resource Agent

cc: Mark Johnson, Trinity Springs Ltd.

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APR 18 2000

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JAN 20 2000

TRINITY

January 18, 1999

Department of Water Resources

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720  
ATTN: Ms. Pamela Skaggs,  
Senior Water Rights Agent

RE: Trinity Springs Ltd. Application for Change In Water Right Ownership Pursuant to No. 63-10560

Dear Ms. Skaggs:

We are enclosing the documents you requested in your letter dated January 3, 2000.

As to your additional questions, here are our answers:

- 1) Yes, we want to change that portion of the right associated with Trinity's recreational and domestic uses on Lot 38, Block 1, Willis Carries's Subdivision, as the entire right for these two uses (pursuant to No. 63-10560) applies solely to beneficial uses that occur on Lot 38.
- 2) Trinity does not wish to change or separate any uses for heating, as Trinity participates as a beneficial user in the heating system serving the entire subdivision (as a member of the Paradise Home Owners' Association).
- 3) As regards paragraph 3 of your letter, Trinity's heating, domestic and recreational use pursuant to No. 63-10560 are beneficial uses that occur only on Lot 38, and the beneficial use for recreational and domestic purposes under the right is solely enjoyed by Trinity, not the association. The association and its members only have rights to the heating portion of the right.
- 4) The lodge, shop and cabins are all on Lot 38.
- 5) The square footage of buildings located on Lot 38 has previously been provided to the department. (If not in the department's records, please advise us and we shall provide it.)

The Paradise Home Owners' Association is aware of Trinity's effort to partition the ownership of No. 63-10560. We respectfully suggest the department contact the association for the requested "acknowledgment letter."

CORPORATE OFFICE  
P.O. Box 1630  
200 South Main Street  
Ketchum, Idaho 83340  
T 208.726.7734  
F 208.726.8015  
E tsprings@micron.net

SPRING SOURCE  
HC 87, Box 390  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2363  
F 208.653.2391  
E tsplant@micron.net

PARADISE RESORT  
HC 87, Box 400  
Pine/Featherville Road  
Paradise, Idaho 83647  
T 208.653.2434  
F 208.653.2391  
E tsplant@micron.net

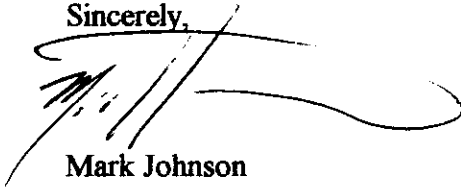
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APR 18 2000

WJK

Voluminous covenants, bylaws and a Memorandum Of Understandings, respectively, exist for the Subdivision and between the Association and Trinity. Trinity will provide them to the department, if the department determines them essential to Trinity's request for partition of the ownership rights. As is pointed out in your letter, "The change of ownership does not authorize a change to the system in any manner, only specifies ownership." Trinity, under the statutory definitions of beneficial use, desires to petition the entire right for recreational and domestic use as established in No. 63-10560 for its own purposes. As stated previously, Trinity views this as a clerical correction. Please call B.C. Young at 208.726.8796, if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Johnson', with a long, sweeping horizontal flourish extending to the right.

Mark Johnson  
President/CEO

cc: Randy Flowers, PHOA President

Enclosures: Tax Notice  
List of Corporate Officers

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1987



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

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

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

January 3, 2000

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Mark Johnson  
Trinity Springs Ltd.  
P.O. Box 1630  
Ketchum, ID 83340

RE: Change of Ownership for a portion of Water  
Right 63-10560

Dear Mr. Johnson:

I am in receipt of the Change of Ownership form you have submitted for a portion of Right 63-10560, currently in the name of Paradise Homeowner's Association. Before I will be able to process your request, I will need some additional information from you.

As I understand your letter and the information in the water right file, you want to change the portion of the right associated with your property on Lot 38, Block 1 of Willis Carrie's Paradise Subdivision into your name. While you have provided a subdivision map, you did not include the required evidence of ownership of the designated property. The required information identified on the form is "A copy of the most recent Deed, Title Policy, Contract of Sale, or other legal document indicating your ownership of the property and water rights or claims in question, with attached legal description." A current tax notice is also helpful to verify current ownership if you purchased the property more than a year ago. This information will need to be supplied in order to process the ownership change.

Also, I would like you to specifically identify all the uses on your property. The field exam identifies heating for the lodge and a shop. You have already identified the domestic use for the lodge, so I would assume a proportion of the heating use associated with the lodge would also be assigned to your ownership. Is the shop or any cabins on your property? Please be specific about what uses under the right occur on your property and provide the square footage of any buildings using the water for heating.

It would also be helpful if the PHOA provided an acknowledgement letter identifying these uses on your property and an agreement to the ownership change. Since the right was developed under an association of users, we would wish to verify that no covenants, bylaws or other restrictions were placed on the use of the water when the property was purchased. An acknowledgement letter from PHOA would address this question.

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APR 18 2000

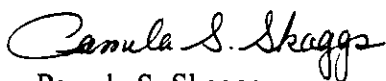
Copy Sent to: Randy Fowers, PHOA President 01-10-2000

If the change of ownership is completed to reflect the individual uses on your property, it would be necessary to identify a combined right limit between the two parts of the right. The rate of diversion identified under this right for heating use is then used for recreation use along with the remaining diversion capacity of the system. The diversion rate for all the uses are not additive, but limited to a combined total. The change of ownership does not authorize a change to the system in any manner, only specifies ownership. The water will continue to be used as developed; part of the water will be diverted to the homes for heating and then to the recreation use. The combined rights may not exceed the originally licensed rate of diversion for these combined uses.

Also, since the proposed new owner is a corporation, please provide a list of corporate officers for our records. This enables us to identify the individuals associated with a corporation when contacted regarding water right matters.

I hope that I have been clear in my requests for additional information. I have enclosed a copy of your original form for your reference. If you have any questions regarding this request, you may contact me directly at 327-7943. I will hold your ownership change form from processing for 15 days to allow you to respond. Thank you in advance for your help.

Sincerely,



Pamela S. Skaggs

Sr. Water Rights Agent

Enclosure

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APR 18 2000

STATE OF IDAHO  
IDAL - DEPARTMENT OF WATER RESOURCES  
**NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are on the back of this page.  
Incomplete forms will be returned.

1. Water Right Number(s) #63-10560  
Adjudication Claim Number(s) \_\_\_\_\_

2. The following **REQUIRED** information must be submitted with this form.

- A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.  
AND  
B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)  
OR  
C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) PARADISE HOMEOWNERS' ASSN.

4. New Owner/Claimant(s) TRINITY SPRINGS LTD.

New Mailing Address P.O. BOX 1630

City, State and ZIP Code KETCHUM, ID 83340

New Telephone Number 208, 726-7734

5. Date you acquired the property Nov., 1991

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated N/A Number and type of stock N/A

Diversion rate in CFS \_\_\_\_\_ Number of homes \_\_\_\_\_ Other uses \_\_\_\_\_  
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s) [Signature] Date 12-20-99

Date \_\_\_\_\_

(Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

December 21, 1999

Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Mr. Shelly Keen  
Water Rights Supervisor

RECEIVED

DEC 27 1999

Department of Water Resources

TRINITY

RE: Water Right License 63-10560; Request for Change in Ownership

Dear Mr. Keen:

Please find enclosed a completed form of the State of Idaho Dept. of Water Resources requesting a change in ownership as reflected currently in Water Right License 63-10560. The intention of the change is to correct an existing error in the stated ownership of the right. The request is not intended to increase any appropriation of state waters, but is intended to correct ownership pursuant to beneficial use and actual use by Trinity Springs Ltd. ("Trinity"), an Idaho corporation.

In December, 1997, the department issued the license to Paradise Homeowners Assn. ("PHOA") Inc, HC 87, Box 410, Mountain Home, Idaho for the use of geothermal waters for heating, domestic and recreational purposes. In fact, the beneficial uses of the waters for the domestic and recreational uses under the cited permit are uses of Trinity and not those of the PHOA. Accordingly, Trinity is attempting to correct the error and herein requests that the company be issued a license (with the same priority) for that portion of 63-10560 pertaining to domestic and recreational use of the appropriated waters approved previously by the department.

Trinity, as a member of PHOA, believes those waters appropriated and used for non-consumptive space heating pursuant to 63-10560 should not be disturbed.

I regret any inconvenience to the department in correcting this error and if I may answer any questions pertaining to the correction requested, please call me.

Sincerely yours,

Mark Johnson, CEO

Enclosures

cc: Randy Flowers, President  
Paradise Homeowners Assn., Inc.  
10071 Martindale Drive  
Boise, Idaho 83709

CORPORATE OFFICE  
P.O. Box 1630  
200 South Main Street  
Ketchum, Idaho 83340  
T 208.726.7734  
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F 208.653.2391  
E tsplant@micron.net

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JAN 12 1998

B.C. YOUNG, J.D. (N.R.L.)

NATURAL RESOURCES CONSULTANT

*c/o TRINITY SPRINGS, LTD.*

*P.O. Box 1630*

*17 Walnut Street KETCHUM, ID 83340*

~~Maxine Land, Florida 32137~~

(904) 461-0150

*208 726-7734*



Paradise  
Lodge  
(South  
Elevation)

Lot 38

Microfilm  
Jan 12 1938



Cabin to REAR of Lodge (G. 151)

Lot 38

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JAN 12 1968



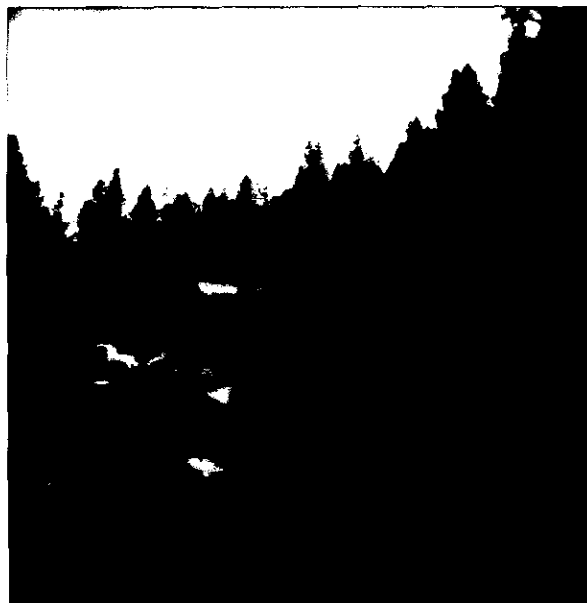
PARADISE LODGE;  
SHOP + LAUNDRY, Bldg (North)  
RECORDED  
LOT 38

JUN 7 1932



CABIN AND FOUNDATION FILMED  
(EAST of Lodge)  
Lot 38

1906



NEW CONSTRUCTION WITH  
EXISTING HOME (IN REAR)  
PARADISE SUBDIVISION JAN 2 1936



RECENT HOME AND GARAGE  
PARADISE SUBDIVISION  
JAN 12 1963

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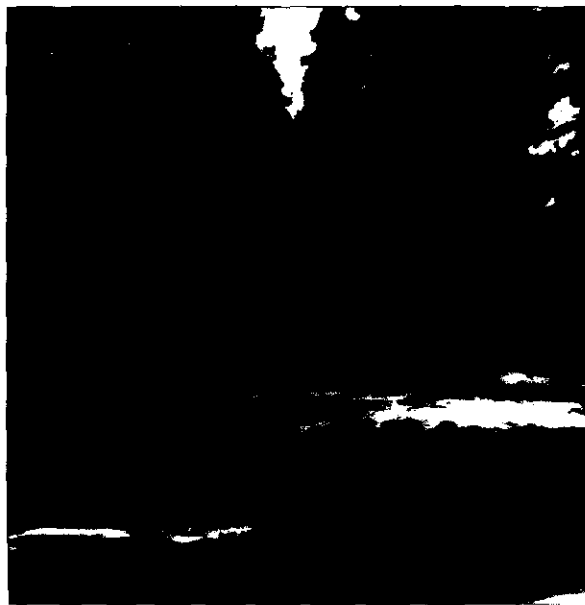


WAGON TOWN MICROFILMED  
CABIN & TRAILER 12 1968

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HOME UNDER CONSTRUCTION -  
PARADISE SUBDIVISION



RECENT HOME  
PARADISE SUBDIVISION

Jan 12 1958

***STATE OF IDAHO***  
***DEPARTMENT OF WATER RESOURCES***  
1301 North Orchard Street, P.O. Box 83720  
Boise, Idaho 83720-0098

Return Service Requested

Photos



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

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

January 5, 1998

**PHILIP E. BATT  
GOVERNOR**

**KARL J. DREHER  
DIRECTOR**

PARADISE HOMEOWNERS ASSN., INC.  
C/O JOYCE FARRIS  
PO BOX 9  
GLENN'S FERRY ID 83623

RE: Water Right 63-10560

Dear Water Right Holder(s):

On December 22, 1997, the Department of Water Resources (the Department) issued the enclosed license in response to a petition for reconsideration of the license issued on July 14, 1997. The enclosed license supersedes the license issued on July 14, 1997. By issuing a license, the Department confirms that a water right has been established in accordance with the permit referenced above. The enclosed license is a amended 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.

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JAN 12 1998

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

### ORAL ARGUMENT

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

### CERTIFICATE OF SERVICE

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

### FINAL ORDER

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

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

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

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

### APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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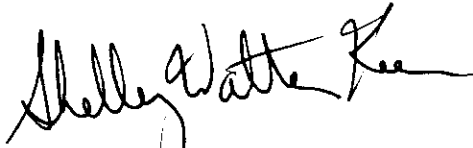
2  
JAN 12 1998

- 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 questions, please contact me at (208) 327-7946.

Sincerely,



Shelley W. Keen  
Water Rights Supervisor

Enclosures

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JAN 12 1998

## **CERTIFICATE OF MAILING**

I hereby certify that on the 5th day of January, 1998, I mailed a true and correct copy, postage prepaid, of the foregoing **AMENDED PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

**Water Right No. 63-10560**

**PARADISE HOMEOWNERS ASSN., INC.  
C/O JOYCE FARRIS  
PO BOX 9  
GLENN FERRY ID 83623**

  
Kari Lynn Townsend  
Secretary

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JAN 12 1998

## MEMORANDUM

**DATE:** December 22, 1997

**TO:** Water Right File 63-10560

**FROM:** Shelley W. Keen *SWK*

**RE:** Amended Preliminary License

---

Last week I spoke with Joyce Farris, Secretary/Treasurer of the Paradise Homeowners Association, and Craven Young, attorney for board member Mark Johnson, about my response to their petition for reconsideration of the preliminary license issued last July. Both Ms. Farris and Mr. Young expressed satisfaction with my proposal for an amended preliminary license. Therefore, I would like to issue the new version of the license at this time.



## 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

November 13, 1997

PARADISE HOMEOWNERS ASSN  
C/O JOYCE FARRIS  
PO BOX 9  
GLENN'S FERRY ID 83623

RE: Water Right Nos. 63-10560, 63-12229, and 63-12230

Dear Water Right Holders:

Thank you for taking the time to come to Boise last month to discuss your water rights with me. Since we spoke, I have reviewed the information you collected to support your petition for reconsideration of Water Right License 63-10560. Based on the information you provided, I am suggesting some changes to your water right license. In order to put the changes into perspective, I think it will be helpful to provide a brief summary of the "life" of 63-10560. With the history as perspective, I can more easily address the issues relating to your request for an amended license.

On November 18, 1987, Harold L. Johnson applied to IDWR on behalf of Paradise Homeowners Association, Inc. (PHOA), to appropriate a maximum of 1.29 cfs from a geothermal spring tributary to Grouse Creek. The total diversion rate of 1.29 cfs was to be allocated as follows:

- 0.35 cfs for the swimming pool and hot baths
- 0.05 cfs for domestic use in the lodge
- 0.89 cfs for space heating in buildings to be located on lots 1-35 and 38-53 and some unplatted property south of Grouse Creek Road.

The application was approved in February of 1988 as Permit 63-10560.

Permit 63-10560 carried a number of approval conditions, two of which I consider to be particularly noteworthy. The first of the two required PHOA to submit proof of beneficial use by March 1, 1989. In other words, the project authorized under Permit 63-10560 was to be completed by 3/1/1989. When issuing a water right license confirming that a water right has been established, IDWR's responsibility is to confirm the beneficial use established before the proof of beneficial use statement is submitted. In most cases, a water right license cannot be issued for any use of water developed after the proof of beneficial use statement is submitted.

The second notable condition required PHOA to permanently install and maintain a measuring device as part of the diverting works. The measuring device would serve two purposes. It would

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K:\NAME\TRS\PHOA.DOC

JAN 12 1998

Page 1

allow IDWR to quantify the use before issuing a water right license, and it would allow the watermaster of Water District 63 to regulate the use by priority in the future.

On July 26, 1988, PHOA submitted a Proof of Beneficial Use statement indicating that development was complete and that IDWR should conduct a field inspection to confirm the extent of beneficial use. At the same time, PHOA asked for relief from the measuring device requirement, but mistakenly referred to Permit 63-10559, which is for the use of ground water. Consequently, IDWR did not formally respond to the request to waive the measuring device requirement.

IDWR's field examination was conducted on November 16, 1989. The examiner found PHOA to be diverting geothermal water from two springs. The field examiner had to estimate the diversion rates from the springs because no permanent measuring device had been installed and because there was no adequate location to obtain a measurement with the portable equipment carried by the field examiner. The examiner's calculations were based in large part on the pumps in place at the time, but also accounted for the gravity flow portions of the systems. The results were an estimate of 0.40 cfs from spring no. 1 and 0.24 cfs from spring no. 2, for a total of 0.64 cfs being diverted from the two springs.

The examiner found the water being used in the lodge and swimming pool as permitted. He found water being used for heating in 33 units, including the lodge, a shop, and 31 homes. The annual diversion volumes recommended by the field examiner were based on his flow rate estimates and the number of units being heated.

In April of 1994 IDWR was preparing to issue a water right license based upon the field examiner's findings. Before the license could be issued, however, Permit 63-10560 had to be amended to reflect the use of the second spring, which was not included on the original permit. IDWR asked for the amendment, and Earl Jackson of PHOA responded with a letter detailing a number of changes to the diversion and delivery systems, including the installation of larger pumps and a new pump station. IDWR responded with a letter that said, in part, "Our normal procedure is to recommend licensing permits based on the field examination information. Any changes made after that date are not usually recommended on the license." I believe IDWR's response would have been even more adamant except for an exception that is made for subdivisions.

As already mentioned, on a water right license IDWR is supposed to confirm the extent of beneficial use developed at the time proof of beneficial use is submitted. As a practical matter, the license generally reflects the beneficial use evident at the time of the field inspection, which occurs some period of time after the proof of beneficial use statement has been submitted. In the case of subdivisions, an exception is made to recognize the fact that it often takes many years for lots to sell and homes to be completed. For a subdivision, IDWR will issue a license recognizing beneficial use for the number of homes capable of being served by the diversion and delivery system in place at the time of the field examination, regardless of the number of homes actually connected. The exception eliminates the need for each homeowner to file for a new water right as his or her home is being constructed.

While corresponding with Mr. Jackson and with Ketchum attorney Jim Speck in 1995, I became aware that the exception for subdivisions may not have been properly applied to PHOA's situation. In an October 23, 1995, letter to PHOA, I explained that the license could be issued for heating use on any lot that was stubbed in prior to August of 1988. The amendment was submitted, but evidence to substantiate the number of stubbed-in lots was not submitted within a reasonable period of time. Therefore, in January of 1996 IDWR issued a license that recognized heating use in the lodge, shop, and 31 homes.

After the license was issued, Jim Speck collected and submitted affidavits indicating that IDWR could have issued the license to recognize heating use in a lodge, a shop, 11 cabins and 43 homes. Based on this new information, IDWR issued an amended license on July 14, 1997. The diversion rate for heating purposes and the diversion volume for heating were adjusted accordingly. The amended license did not change the total diversion rate, however, because there was no evidence to demonstrate that PHOA could have diverted more than 0.64 cfs with the system in place in 1988.

The amended license was issued as a preliminary order of IDWR. On July 25, 1997, you formally challenged the license by submitting a petition for reconsideration of the preliminary order. IDWR granted your petition, and you then met with me on September 18 to discuss your petition. You told me that you would prepare a written request, including supporting documentation, for specific changes to the license. As I mentioned above, I have received and reviewed your request.

As I understand your request, you have three reasons for asking IDWR to increase the diversion rate and annual volume allowed for heating. First, you believe there was an error in IDWR's calculations used to estimate the amount of water being beneficially used. Second, the homes being heated are larger than used in IDWR's original estimates. And third, according to measurements by McClure Engineering, the springs from which you divert produce a combined rate of flow of about 0.96 cfs.

The first two reasons warrant new calculations -- please see the attached worksheet. Based on the new calculations, I propose raising your diversion rate for heating to 0.64 cfs and your annual volume for heating to 152 acre feet. As I stated before, the licensed diversion rate cannot exceed the diversion capacity developed by the time of the field examination. Changes you have made in pumping capacity since 1989 cannot be included on this license. Therefore, the diversion rate for heating and the total diversion rate must be limited to 0.64 because that is the maximum capacity of your system in 1989 as estimated by the field examiner, who did not have the aid of a measuring device. It is worth noting, however, that if you apply the design criteria of 5 gallons per minute per home described in the McClure Engineering report to the 43 homes, 11 cabins, 1 shop, and 1 lodge heated under the license, you come up with a figure very close to 0.64 cfs.

While the pumps in place at the time of the field examination result in a limitation on the amount of water that can be licensed for heating purposes, I see no such limitation for the recreation use. If I understand the field examiner's report correctly, the entire flow of both spring sources is ultimately diverted to the swimming pool, with some of the water being used for heating along the way. If we use the McClure report flow measurements, a total of 0.96 cfs (430 gpm) is

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apparently diverted to the swimming pool for recreational use. I will recommend that water right license 63-10560 show 0.96 cfs for recreation purposes.

A draft of right 63-10560 as it would be configured under my recommendations is enclosed. Before submitting the recommendations to my superiors for a decision on amending your license, I will hold the file for 15 days so that you have time to review the recommendations and comment.

As for the McClure report, which addresses "quantities of water available", I believe it will continue to be valuable to you as a planning tool for future system design improvements. However, some of the statements in the report should be put into context. The report says that you have two permits as well as licensed right 63-10560. In fact, contrary to my suggestion during our meeting, you have allowed permits 63-12230 and 63-12229 to lapse, and the 60-day deadline for having them reinstated simply by submitting your proof of beneficial use statement has passed. Moreover, only 63-12230 was for use of water from the springs. Lapsed permit 63-12229 proposed the development of ground water diverted from a well.

In order to have the lapsed permits reinstated, you will have to submit the following documentation for each permit.

- A Proof of Beneficial Use statement with the appropriate examination fee
- Two pieces of evidence demonstrating that water was put to beneficial use prior to the date Proof of Beneficial Use was due.
- An explanation as to why the Proof of Beneficial Use was not filed timely.

Also, the McClure report indicates that you are planning to provide geothermal water for heating on 66 lots. With 54 covered by your license, and three more covered by Permit 63-12230, should it be reinstated, you are still nine lots short. Even if application 63-12316, which I just received from our Western Region office, is approved for heating in one home and a recreation center as proposed, your filings will still not cover heating for homes on 66 lots. Therefore, you should consider filing another application for permit to cover your current and expected future water use in excess of your current water rights. In the upper Boise River Basin, applications for new non-consumptive uses of water, such as heating, will be reviewed and processed by IDWR. I have enclosed an application form and instructions for you.

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

Respectfully,



Shelley Walter Keen  
Water Rights Supervisor

Enclosures

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JAN 12 1998

## MEMORANDUM

TO FILE: 63-10560  
FROM: S. W. Keen  
RE: Review of Heating Use Requirements from a Geothermal Source  
DATE: 11/06/97

### ESTIMATED RATE OF FLOW AND ANNUAL VOLUME FOR HEATING USE

#### GIVEN:

|                           |   |                 |
|---------------------------|---|-----------------|
| Source Temperature        | = | 128 degrees     |
| Area / Two story building | = | 115000 sq. ft.* |
| Temperature Outside       | = | -8 degrees      |
| Temperature Inside        | = | 70 degrees      |
| Building Efficiency       | = | 0.67            |
| Temperature Required      | = | 70 degrees      |

#### CALCULATED VALUES:

|                               |   |                  |
|-------------------------------|---|------------------|
| Single Floor System Heat Load | = | 6,009,900 btu/hr |
| Two Floor System Heat Load    | = | 4,807,920 btu/hr |
| Temp. Drop Across System      | = | 17.4 degrees     |

#### ESTIMATED POTENTIAL BENEFICIAL USE (Flow Rate):

|                        |   |          |
|------------------------|---|----------|
| Single Floor Flow Rate | = | 691 gpm  |
|                        | = | 1.54 cfs |
| Two Floor Flow Rate    | = | 553 gpm  |
|                        | = | 1.23 cfs |

\* = (54 homes \* 2000 ft. sq.) + (1 shop \* 1000 ft. sq.) + (1 lodge \* 6000 ft. sq.)

#### RECOMMENDED FLOW RATE:

0.64 cfs (287 gpm) based on estimated diversion capacity

#### RECOMMENDED ANNUAL DIVERSION VOLUME:

287 gpm \* 240 days/year \* 12 hrs/day \* 60 min/hr = 49593600 gal/yr = 152 af/yr

#### EFFICIENCY RATING INFORMATION \*\*

0.28 Best energy efficiency rating  
0.44 Good energy efficiency rating  
0.67 Average energy efficiency rating  
1.11 Poor energy efficiency rating

\*\* Source - Administrator's Memorandum dated 9/28/92.

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IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT NO. L63-10560

PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

Priority Date: 11/18/1987  
Stage: LICENSE

Source: SPRINGS  
Tributary: GROUSE CREEK

| Beneficial Use | From:  | To:   | Diversion Rate | Volume     |
|----------------|--------|-------|----------------|------------|
| HEATING        | 01-01  | 12-31 | 0.64 CFS       | 152.00 AFA |
| DOMESTIC       | 01-01  | 12-31 | 0.05 CFS       | 1.00 AFA   |
| RECREATION     | 01-01  | 12-31 | 0.96 CFS       | 694.00 AFA |
|                | Total: |       | 0.96 CFS       | 694.00 AFA |

Point(s) of Diversion: SWSWNE, Sec. 33, Township 03N, Range 10E  
Lot 4 (NESENW) 33, 03N, 10E

Place(s) of Use: HEATING  
Twp: Rng: Sec: Tract: Acres: Tract: Acres: Tract: Acres:  
03N 10E 33 NWNE SWNE Lot 01 (NENW)  
Lot 04 (SENW)

Place(s) of Use: DOMESTIC  
Twp: Rng: Sec: Tract: Acres: Tract: Acres: Tract: Acres:  
03N 10E 33 Lot 04 (SENW)

Place of Use: RECREATION, same as DOMESTIC

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. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.
6. The Director retains jurisdiction to require the installation of a totalizing measuring device of a type approved by the Department.
7. Heating use is for a lodge, a shop, 11 cabins and 43 homes known as Lots 1-35 and 39-46, Willis Carrie's Paradise Subdivision.
8. Domestic use is for a lodge.
9. Recreation use is for a swimming pool.

Dates: App. Received: 11/18/1987 Proof Due Date: 03/01/1989

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IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT NO. L63-10560

Dates: Proof Made Date: 07/26/1988  
Licensed Date: 07/14/1997

Exam Made Date: 11/16/1989

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**PARADISE HOME OWNERS' ASSOCIATION**  
**Post Office Box 1630**  
**Ketchum, Idaho 83340**

September 23, 1997

**RECEIVED**

**SEP 24 1997**

Idaho Department of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
ATTN: Shelly Walter Keen, Water Rights Supervisor

Department of Water Resources

RE: Brief In Support of Proposal for Reconsideration of Water Right No.  
63-10560 Pursuant to Order Granting Petition for Reconsideration

Dear Mr. Keen:

We would like to express our appreciation for the time and assistance you have given us in preparing and submitting our Brief In Support of our proposal concerning the above referenced Water Right.

Initially, we are providing a new calculation of the formula presently utilized by the department for determining rates of flow for geothermal heating systems, as follows:

$$\begin{aligned} .67 \times 78 \times 64,000 &= 3,344,640 / [500 \times 17.4] = 384.44 = .86 \text{ cfs} \\ .86 \times 448.8 \times 60 \times 12 &= 277,897 \text{ gpd} \times 180 / 325,850 = 153.51 \text{ af} \end{aligned}$$

(Please Note: This calculation utilizes a temperature of 17.4 degrees F, rather than a temperature of 34.8 degrees F.)

Thus, applied to our requested amendment:

| <u>BENEFICIAL USE</u> | <u>RATE OF DIVERSION</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|--------------------------|----------------------|
| Heating               | 0.86                     | 153.51               |
| Domestic              | 0.05                     | 1.0                  |
| Recreation            | 0.35                     | 62.5                 |

We are also pleased to enclose as Exhibits to our proposal the following documentation for consideration by the department:

1. "Report On Geothermal Water Resources For Paradise Subdivision Located in Pine, Idaho," prepared by McClure Engineering of Boise, Idaho certifying geothermal spring flows totaling 430 gallons per minute (0.96 cfs);

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JAN 12 1998

Idaho Department of Water Resources  
Proposal for Reconsideration of License # 60-10569  
Page two

- 2 A plat of Paradise Subdivision, keeping in mind that we also supply a lodge, a shop and laundry, and 11 cabins, including those in Paradise Pines and Wagontown subdivisions, respectively;
3. Original, notarized affidavits of thirteen lot owners; and
4. Supporting photographs of some of the existing buildings (new and old) and of two homes presently under construction.

Moreover, we believe that the rising property values in our subdivision will result in future homes on presently unimproved lots larger than was estimated at the time our license was issued. Accordingly, our nonconsumptive beneficial use will require allocation of the entire spring flows in our license.

Thank you for your consideration of our brief.

Sincerely yours,



Mark Johnson, Member  
PHOA Water Rights Committee

Enclosures  
Exhibits 1 - 4

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JAN 12 1938

REPORT

SEP 18 1997

ON

RECEIVED

SEP 18 1997

Department of Water Resources

GEOHERMAL WATER RESOURCES

FOR

PARADISE SUBDIVISION

LOCATED

IN

PINE IDAHO

*Prepared by:*

**McClure Engineering**

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JAN 12 1998

## INTRODUCTION

The Paradise Subdivision located near Pine Idaho currently utilizes geothermal hot water from springs located within the subdivision area for heating of cabins and other facilities in the subdivision area. The Home Owners Associates wishes to further develop this existing resource. Pursuant to this, they contacted McClure Engineering to assist them in planning the development of the geothermal resource.

The purpose of this report is to present findings regarding quantities of water available at the site, as determined by on site measurement, to correlate those on site measurements with existing and/or pending permit applications, and finally to present items for consideration prior to going into the design phase of the project.

## FINDINGS

On August 26, 1997, flow measurements were taken on the two geothermal sites available on this subdivision property. Measurements were taken by Mr. Jeff Martins, Steel Head Engineering, utilizing an ultrasonic flow meter field measurement devices of a type acceptable to the Idaho Department of Water Resources. Coordinating the flow measurement task were Mr. Erin Bartschi, McClure Engineering and Gordon Hendrix, McClure Engineering. Observing the flow measurement activities for the Home Owners Association were Mr. Mark Johnson and Mr. Jim Paulson.

The results of the flow measurements were as follows:

| Source       | Flow    |
|--------------|---------|
| Upper Spring | 114 gpm |
| Lower Spring | 316 gpm |
| Total.       | 430 gpm |

## INVESTIGATION

The Paradise Homeowners Organization currently has four water right permits in various stages of approval. One license, dated November 18, 1987, authorizes the utilization of .64 cfs (287.25 gpm) by the Homeowners Association. This water right allows utilization of the water for heating, domestic and recreational uses. Two permits have been issued on which final licensing is pending. One permit,

dated June 26, 1995, authorizes the diversion of 0.14 cfs (63 gallons per minute) for irrigation and domestic use. A second permit, dated June 26, 1995, authorizes utilization of .08 cfs (35.9 gpm) for the purpose of a geothermal heating. Finally, an application dated February 6, 1996, has been made for an allocation of 0.10 cfs (44.883 gpm) for use as stock water and/or domestic water source. Thus the total quantity of water applied for and/or approved equals 430.87 gallons per minute. It follows that the quantity of water measured as being available on the site (430 gpm) and the quantity of water for which permitting has been applied for are virtually identical. As noted, approved uses for the domestic hot water source include heating, domestic use, recreation, irrigation, and stock watering.

Approximate layouts of the spring water collection systems are attached in enclosure 1. These piping arrangements are based upon limited observation of site conditions combined with a description of piping configuration provide by Guenter de Vincent.

### DISCUSSION

My discussion with the members of the Home Owners Association established that design criteria for the new system shall include the supply of five gallons per minute of geothermal hot water to each of 66 lots. This portion of water allocation would require 330 gallons per minute. Heat load calculation were performed on the existing lodge to determine the volume of geothermal water necessary to provide adequate heating for this facility. Those calculation establish that 33 gallons per minute of geothermal water would be necessary. Assuming that the remaining quantities of water available from the geothermal resource are to be diverted to the pool, that leaves approximately 67 gallons per minute for all other uses including heating of the swimming pool area.

Preliminary investigation as to whether the 5 gallon per minute per cabin will be sufficient for heating indicates that this quantity of water should be sufficient to maintain the cabins above freezing. However it is also anticipated that supplemental heat will be required at times to achieve a comfortable environment within the cabins when outdoor air temperatures are extremely low. The extent to which supplemental heat is required with, of course, depend on the efficiency of the heating system installed in each cabin and the size and thermal efficiency of each cabin.

With regard to system design, several items appear worthy of note:

First, in order to provide heat for all lots anticipated for the subdivision, it will be necessary to utilize the flow from both the upper and lower geothermal springs to maintain adequate water flows. Also, because of the temperature of the water, special consideration should be given to the selection of pumps used for

the system to ensure that they are designed to operate at the elevated water temperatures provided by the geothermal water.

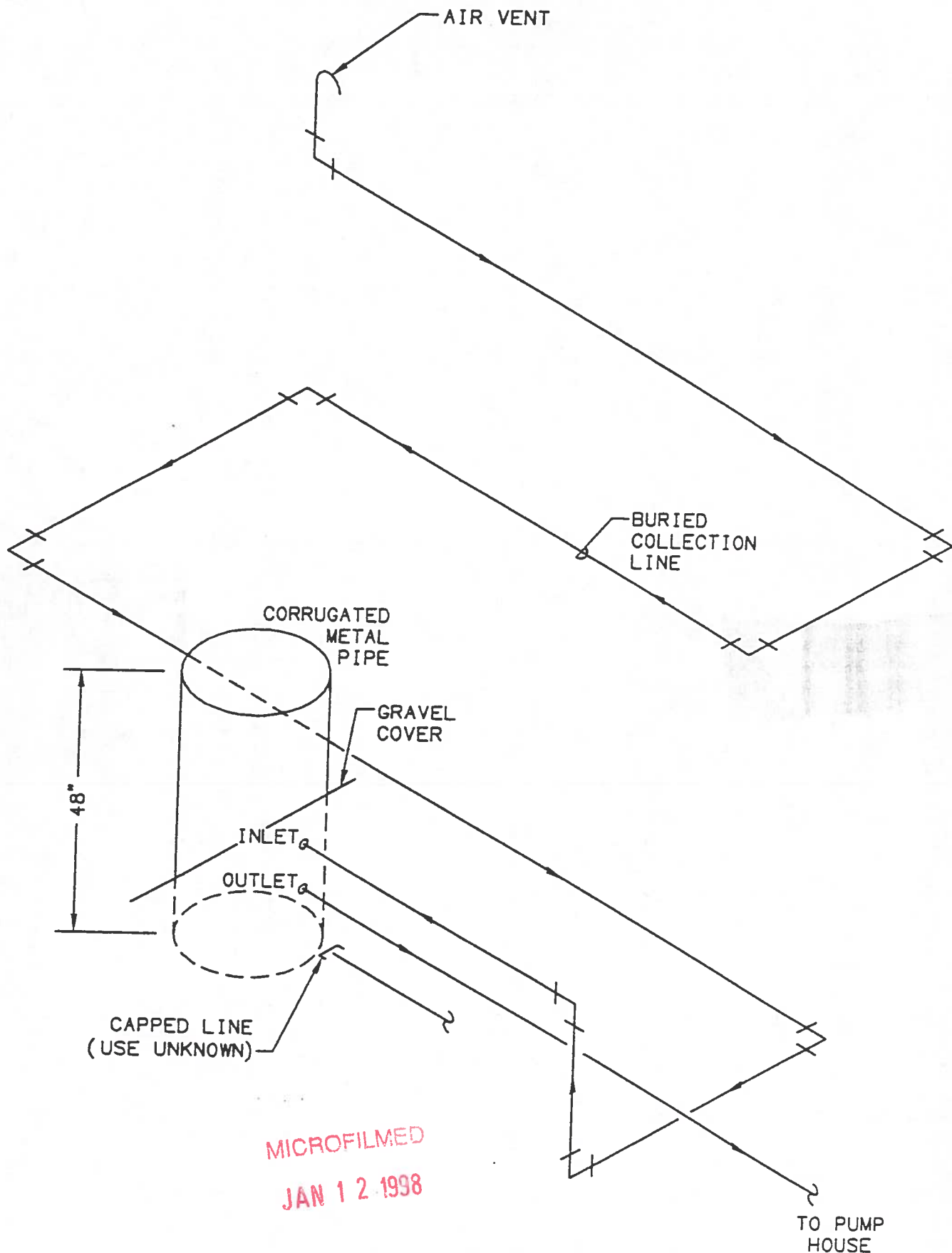
With regard to providing flow to the cabins, it appears advisable to have each of the cabins supplied with geothermal water through a flow limiting device which will maintain a constant 5 gpm flow regardless of differential pressure unless flow is shut off on the discharge side of the valve as would be the case with a two position valve within the cabin. This arrangement would assure that all cabins would receive the correct amount of water regardless of outside conditions.

The second item to note is that the listing for this water is as a heating and domestic source and not as potable water source. It is my understanding that this water is suitable for drinking if it is properly treated. However, as delivered it is my understanding that it is not advisable to utilize this water as a potable or drinking water source. Therefore anticipated domestic water use would be restricted to utilization in shower and/or hot tub facilities. Waters diverted from the system for this purpose would have to be disposed of through the site sewer system and not through the heating water return system.

To prevent contamination of the water resource, it is required that any such connections accomplished inside the cabins be installed in compliance with Article 603.3.5 of the Uniform Plumbing Code. Further, it may be advisable to install a backflow preventor device at the take off for each cabin to insure that contaminated water is not pulled back into the central distribution system.

### CONCLUSION

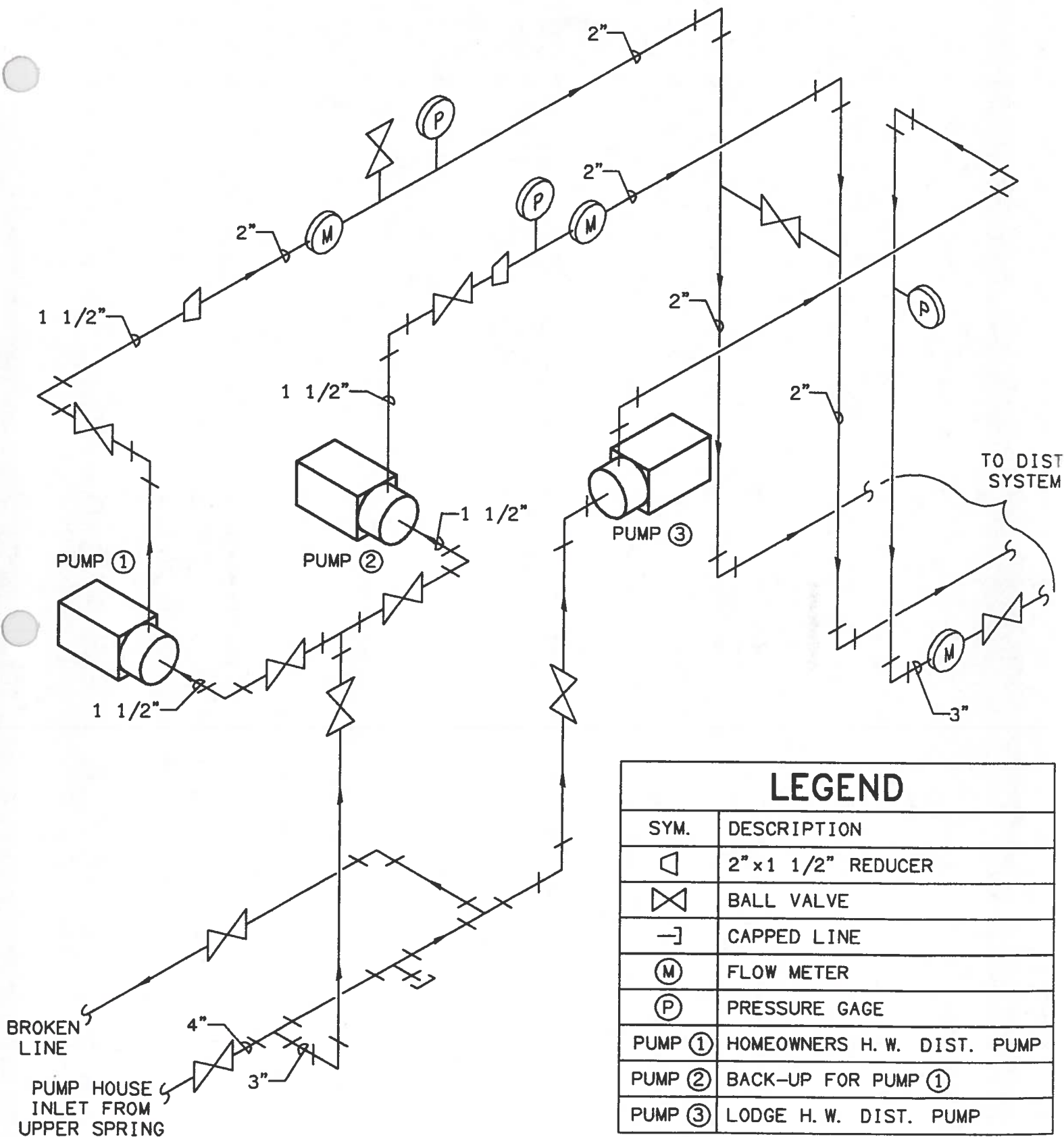
The Paradise Homeowners Association has permit application either approved or in process for the entire flow measured as being available from two geothermal springs available on the subdivision site. Existing distribution systems utilize a small portion of existing resources for geothermal heating of existing cabins. Modification or replacement of the existing system will be necessary to insure that the resource is utilized in a manner which is both efficient and equitable to all lot owners within the subdivision. Further, development of the resource should progress in a manner which allows proper utilization of the resource while preventing possible contamination which may occur if improper piping systems are allowed to be installed.



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# HOT WATER COLLECTION SYSTEM AT UPPER SPRING

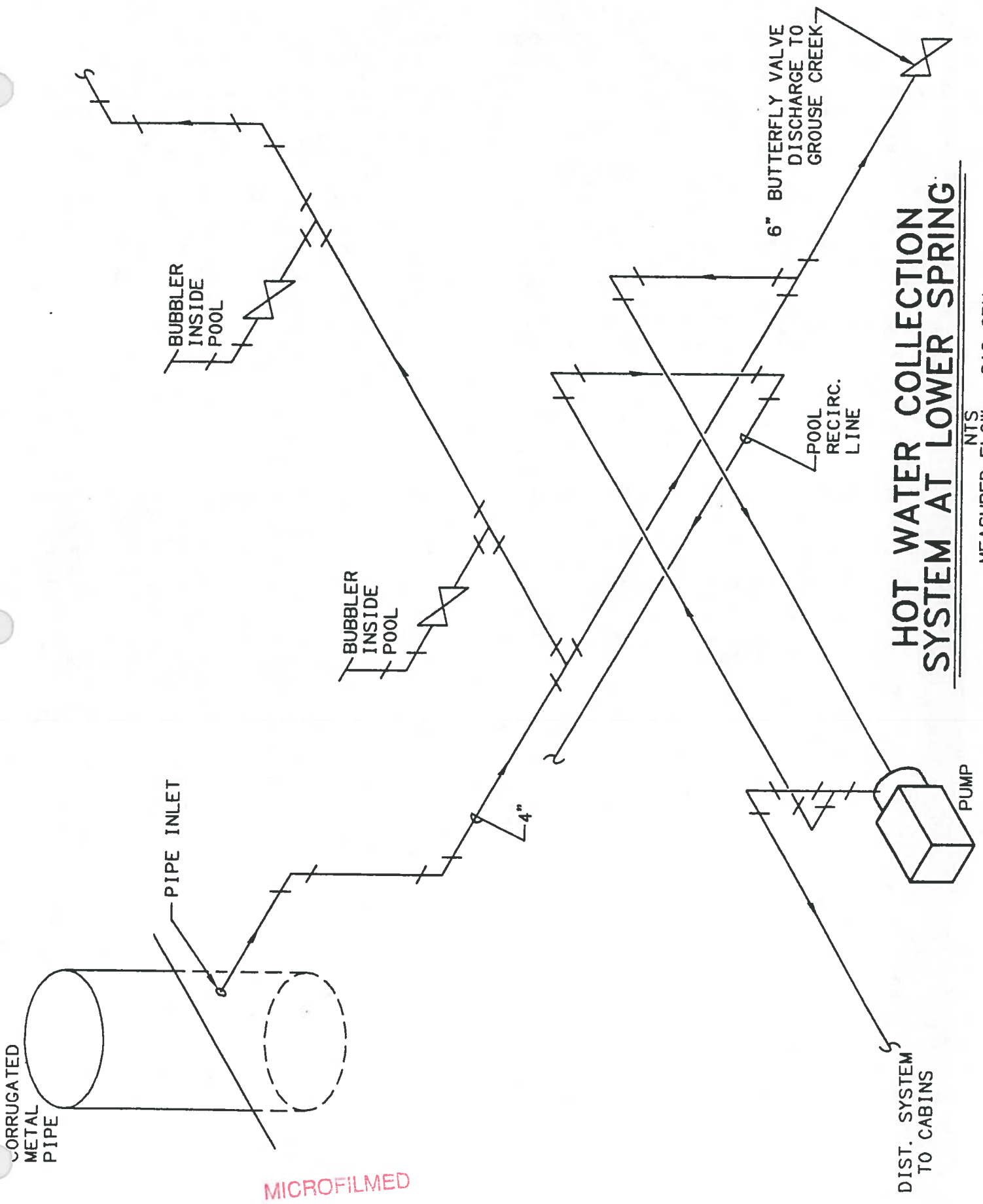
NTS  
MEASURED FLOW - 114 GPM



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# UPPER SPRING PUMP HOUSE SYSTEM

NTS



# HOT WATER COLLECTION SYSTEM AT LOWER SPRING

NTS  
MEASURED FLOW - 316 GPM

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**REPORT**  
**ON**  
**GEOHERMAL WATER RESOURCES**  
**FOR**  
**PARADISE SUBDIVISION**  
**LOCATED**  
**IN**  
**PINE IDAHO**

*Prepared by:*  
**McClure Engineering**

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#### CONCLUSION

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )

SS. )

COUNTY OF Elmore )

I, James E Paulson 523-48-4782  
Glennys E Paulson, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 8 and 9 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 5-1-92. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the

Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_

3. Lot 8 - To heat + 120 sq ft main floor  
2 story + 775 sq ft Bottom floor 3 Bed Room  
+ 700 upper level (includes 2 B.R. room  
2 Car garage 1000 sq ft.  
Lot 9 - Plan to Build 2000 sq ft home in  
near future.  
Glennys E. Paulson

DATED: 9-15-97

James E Paulson  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 16 day of Sept, 1997.

Sandra L. Candell  
Notary Public for Idaho  
Residing At Buhl, Idaho  
Commission Expires: 11-14-98

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JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
COUNTY OF ELMORE )

SS.

I, DAVID L JOHNSON, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 33 of Willis Carrie Paradise Subdivision ("Subdivision") in Elmore County, Idaho, which I have owned since SEPTEMBER / 1996. I am over the age of eighteen years and competent to testify to the matters set forth below.

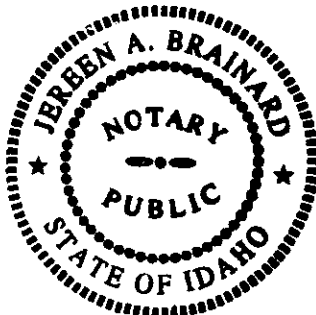
2. I am familiar with the system which distributes hotwater for heating, domestic and recreation purposes from the springs situated on lands immediately east of the Subdivision and now owned by the Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

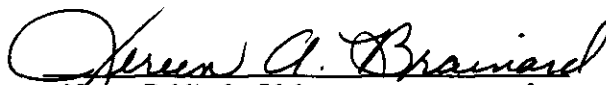
3. NO HOUSE AT PRESENT, JUST A BARE LOT. POSSIBLY BUILDING A SMALL CABIN IN THE FUTURE, NO PLANS YET.

DATED: 8/26/97

  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 26<sup>TH</sup> day of AUG, 1997.



  
Notary Public for Idaho  
Residing At Meridian, Id.  
Commission Expires: 6/20/2001

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 43-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
COUNTY OF \_\_\_\_\_ ) SS.

I, Wendy S. St-Jean, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 26 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 5/17/96. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. I intend in 1998 to begin construction  
on a 3300 sq ft house including garage.

DATED: 7/26/97

Wendy S. St-Jean  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 26 day of July, 1997.

Carol J. Dean  
Notary Public for Idaho  
Residing At Idaho Falls, ID  
Commission Expires: 3/2002

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )  
Licensee. )

AFFIDAVIT

STATE OF IDAHO )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I, Richard Boesiger, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 29 + 30 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 1981. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

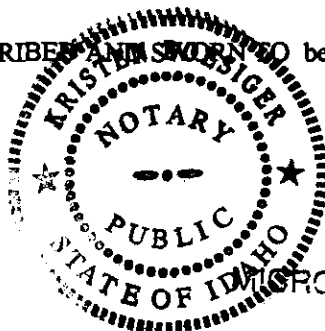
2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. Since 1981 have used hot water system to  
heat prox. 2000 SF cabin and (2 story) and  
prox. 700<sup>+</sup> garage with 700<sup>+</sup> sleeping loft.

DATED: Sept. 2, 1997

Richard Boesiger  
Signature of Owner(s)

SUBSCRIBED AND SWORN to before me this 2<sup>ND</sup> day of Sept 1997.



Kristin Boesiger  
Notary Public for Idaho  
Residing At \_\_\_\_\_  
Commission Expires: 7-22-2003

REPROFILMED  
JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
COUNTY OF \_\_\_\_\_ ) SS.

I, Richard Starkey being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 27 of Willis Carrie Paradise Subdivision ("Subdivision") in Elmore County, Idaho, which I have owned since 2-1985. I am over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation purposes from the springs situated on lands immediately east of the Subdivision and now owned by the Paradise Homeowners Association, Inc., the holder and licensee of Water Right License No. NA.

3. No immediate plans for building.

DATED: 9-3-97

Richard Starkey  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 3<sup>rd</sup> day of Sept, 1997.

Carol A. Rooney  
Notary Public for Idaho  
Residing At Elmore County  
Commission Expires: 4-2-99

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 6310560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
COUNTY OF \_\_\_\_\_ ) SS.

I, Eugene Reynolds, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot 45 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 1975. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. Log home of 1562 sq. ft. Two story with 2  
Baths and w/d + Dish washer. Heated  
with Natural Hot water in cast iron  
Radiant Heaters. Hot Tub uses water  
after flows thru Radiant Heaters.

DATED: 7-2-97

Eugene Reynolds  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 2 day of Sept, 1997

Ken B. Hall  
Notary Public for Idaho

Residing At Boise

Commission Expires: 1-28-2000

MICROFILMED.

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
 ) SS.  
COUNTY OF Twin Falls

I, James Swick, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 53 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since Feb - 20 - 1997. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. TWO STORY HOUSE WITH 2612 Square FT.  
MAIN FLOOR 1480 BASEMENT, and Heated  
garage 1068 TOTAL

MAIN 2612  
BASEMENT 1490  
GARAGE 1068

DATED: Feb 2 1997

James Swick  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 2 day of Sept, 1997.

George D. Kunk  
Notary Public for Idaho  
Residing At Idaho  
Commission Expires: 6-23-2002

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I, Michael & Marylou Koelsch, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 546 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 1987. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. We have about 1500 sq ft in our cabin

DATED: 9/4/97

Michael Koelsch  
Marylou Koelsch  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 4 day of Sept, 1997

Linda Smuck  
Notary Public for Idaho  
Residing At Mt Home, Id  
Commission Expires: 4-18-2000

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
COUNTY OF Elmore ) SS.

I, Lehi David Smith  
Kellie Maurer Smith, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 4 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 10/93. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

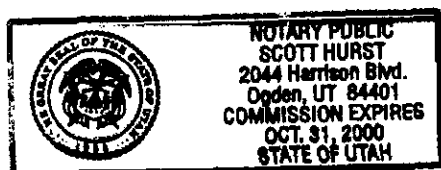
2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. Current plans are to construct a home with a  
heated floor space of 1800 square feet nominal.

DATED: 05 September 1997

Lehi David Smith  
Kellie Maurer Smith  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 5 day of Sept, 1997



[Signature]  
Notary Public for Idaho  
Residing At 2044 Harrison Blvd Ogden, UT 84401  
Commission Expires: Oct 31, 2000

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10360 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )

SS. )

COUNTY OF \_\_\_\_\_ )

I, Gail Paulson, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 214 22 of Willis Carrie Paradise Subdivision ("Subdivision") in Elmore County, Idaho, which I have owned since 1995. I am over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation purposes from the springs situated on lands immediately east of the Subdivision and now owned by the Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. One 2000 sq. ft. 2 Story House that I use Hot water to heat it with. I also heat my Hot tub with the water.

Some day there may be a Building on the base lot and I would need more water for heat there too.

DATED: 9/9/97

Gail Paulson  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 9 day of Sept, 1997

Barbara J. Smith  
Notary Public for Idaho

Residing At Boise, ID

Commission Expires: 5-21-2002

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )

AFFIDAVIT

Licensee. )

STATE OF IDAHO )  
 ) SS.  
COUNTY OF Elmore

I, Robert Sheaffer being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) Parcel 7 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since July 1979. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. I have about 450 square feet but I hope  
to heat my place with hot water some day  
and I may want to make it larger.

DATED: 9/4/97

Robert Sheaffer  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 4th day of Sept, 1997.

William M. [Signature]  
Notary Public for Idaho  
Residing At Kampa  
Commission Expires: 8/31/2000

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )  
Licensee. )

AFFIDAVIT

STATE OF IDAHO )  
COUNTY OF \_\_\_\_\_ ) SS.

I, Leon Urie, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 15 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 1994. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and license of Water Right License No. \_\_\_\_\_.

3. STARTING 1998 we are building a full  
Basement 2 story (great room) home w/ heat  
by Hot water w/ SPA Hot Tub -  
1200\$ 3 level  
9-9-97

DATED: \_\_\_\_\_

Leon Urie  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 9th day of Sept 1997

Stephen K. Green  
Notary Public for Idaho

Residing At Madison, Idaho

Commission Expires: 8/4/98

MICROFILMED

JAN 12 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-14560 IN THE NAME OF )  
PARADISE HOMEOWNES' ASSOCIATION, INC., )  
Licensee. )

AFFIDAVIT

STATE OF IDAHO )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I, Norman R. Garlinton, being duly sworn, under oath, deposes and states, as follows:

1. I am the owner of Lot(s) 24 of Willis Carrie Paradise Subdivision ("Subdivision")  
in Elmore County, Idaho, which I have owned since 1982. I am  
over the age of eighteen years and competent to testify to the matters set forth below.

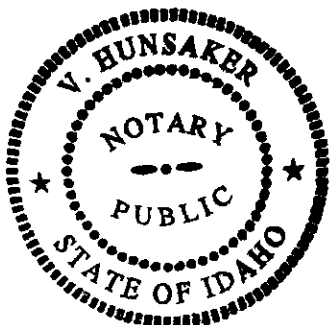
2. I am familiar with the system which distributes hotwater for heating, domestic and recreation  
purposes from the springs situated on lands immediately east of the Subdivision and now owned by the  
Paradise Homeowners Association, Inc., the holder and licensee of Water Right License No. \_\_\_\_\_.

3. Our Cabin is 2 story  
at 1250 sq. ft.

DATED: 9-8-97

Norman R. Garlinton  
Signature of Owner(s)

SUBSCRIBED AND SWORN TO before me this 9 day of 8, 1997



MICROFILMED  
JAN 12 1998

V. Hunsaker  
Notary Public for Idaho

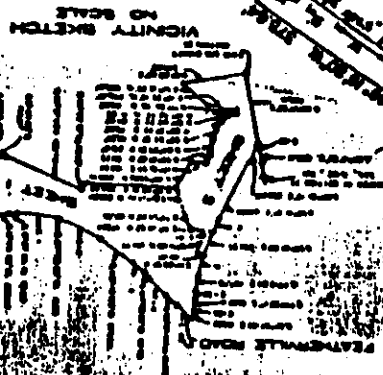
Residing At Baise, Id

Commission Expires: 6-19-2001

WILLIS CARRIE'S PARADISE SUBDIVISION  
A PORTION OF SECTION 20, 12N. 40E. 8E.  
ELMORE COUNTY, IDAHO

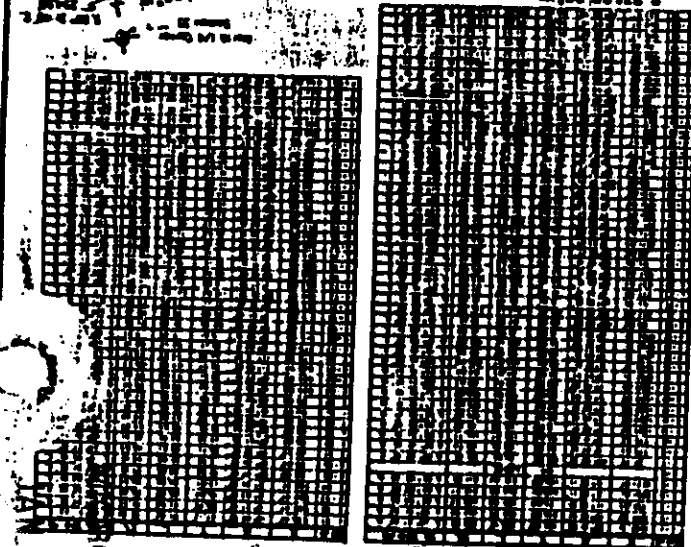
1978

SCALE IN FEET



CURVE DATA

12 1998



| LOT | USE         |
|-----|-------------|
| 1   | Residential |
| 2   | Residential |
| 3   | Residential |
| 4   | Residential |
| 5   | Residential |
| 6   | Residential |
| 7   | Residential |
| 8   | Residential |
| 9   | Residential |
| 10  | Residential |

LOT USE

LEGEND

NOTE:  
1. All lots are to be used for residential purposes only.  
2. All lots are to be used for residential purposes only.  
3. All lots are to be used for residential purposes only.

J-U-S ENGINEERS, INC.

1000 N. 1000 E.

Legal Road  
(not installed)

Illegal Road (installed by Earl) "Karl & Linda's lane"

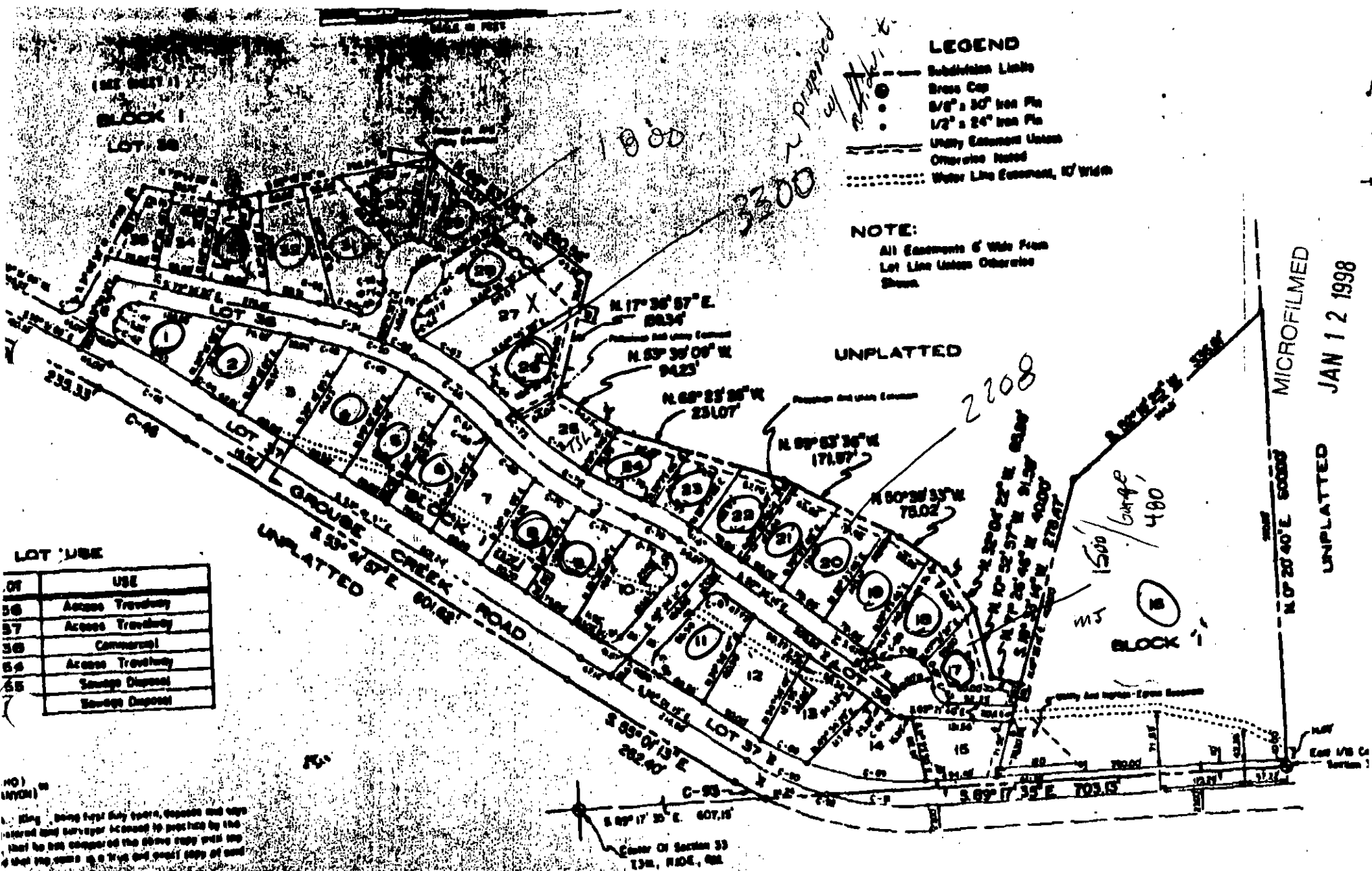
(SEE SHEET 1)  
BLOCK 1  
LOT 56

# LEGEND

- Subdivision Limits
- Brass Cap
- 5/8" x 30" Iron Pin
- 1/2" x 24" Iron Pin
- Utility Easement Unless Otherwise Noted
- Water Line Easement, 10' Wide

## NOTE:

All Easements 6' Wide From Lot Line Unless Otherwise Shown.



MICROFILMED  
JAN 12 1998

UNPLATTED

J-U-B ENGINEER  
Engineer, P.E.  
Hampden, ME

DWG. NO. N77

PLAT BOOK  
SHEET

# Paradise Homeowners Association

## Board of Directors

1997-1998

Larry Johnson-President  
985 N. 18th E.  
Mtn. Home, ID 83647  
Phone:587-4126

Karl Hansen  
5085 N. Leather Pl.  
Boise, ID 83709  
Phone:376-8313

Randy Fowers-Vice President  
10071 W. Martingale Dr.  
Boise, ID 83709  
Phone:322-5408

Mark Johnson  
P.O. Box 1630  
Ketchum, ID 83340  
Phone:726-7734

Joyce Farris-Secretary-Treasurer  
P.O. Box 9  
Glenns Ferry, ID 83623  
Phone:366-2217

Charles Legg  
1431 Kimberly Rd.  
Twin Falls, ID 83301  
Phone:733-7003

Harry Cozakos  
611 Yingst  
Jerome, ID 83350  
Phone:324-5928

Jim Vines  
1810 N. 12th E.  
Mtn. Home, ID 83647  
Phone:587-8544

Norman Eckert  
Rt. 3 Box 291  
Buhl, ID 83316  
Phone:543-5996

*If you have any  
questions please  
call me at  
366-2217.  
Joyce*

MICROFILMED  
JAN 12 1998

## MEMORANDUM

**DATE:** August 13, 1997

**TO:** Water Right File 63-10560

**FROM:** Shelley W. Keen *SWK*

**RE:** Phone call from Craven Young

---

This morning Craven Young called to tell me that he is working with Mark Johnson to review the amended license issued for right 63-10560. He would like the Order Granting Petition for Reconsideration and a copy of Application Processing Memorandum No. 23 mailed to him at P. O. Box 1630, Ketchum, ID, 83340. The phone number there is (208) 726-7734.

MICROFILMED

JAN 12 1998

RETURN SERVICE  
REQUESTED

PRECEDENCE  
FIRST CLASS



Craven Young  
P.O. Box  
1630 Ketchum  
83340

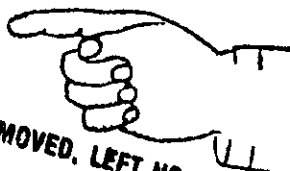
726-7734

Jr.

MICROFILMED  
JAN 12 1998

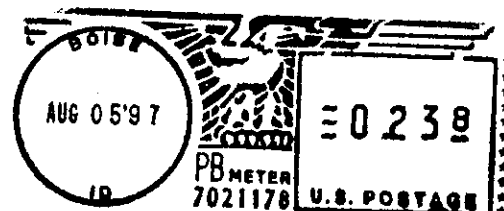
STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
North Orchard Street  
Boise, Idaho 83706-2237

ADDRESS SERVICE  
REQUESTED



MOVED, LEFT NO FORWARD

PRESS HERE  
FIRST CLASS

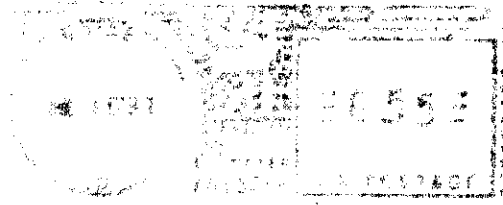


RECEIVED  
AUG 11 1997

Department of Water Resources

MICROFILMED  
JAN 12 1998





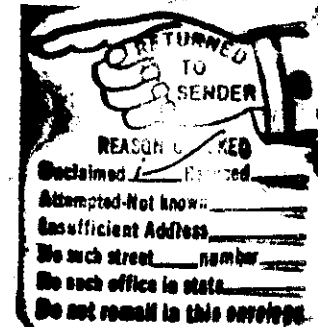
100-100000  
100-100000

**IDAHO DEPARTMENT OF WATER RESOURCES**

1301 N. Orchard St.  
P.O. Box 83720  
Boise, ID 83720-0098  
(208) 327-7900

To

PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647



Return  
to  
Sender

No Mail  
Received  
here



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

August 4, 1997

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

Attn: Mark Johnson

RE: Water Right No. 63-10560

Dear Mr. Johnson:

I have enclosed an order granting your petition for reconsideration of water right license no. 63-10560. Please note that the order establishes a deadline of September 25, 1997, for you to submit additional information relevant to the licensing of water right no. 63-10560.

If you still wish to meet to discuss your water right, or if you have any questions, please contact me at 208-327-7946.

Respectfully,

A handwritten signature in cursive script, reading 'Shelley Walter Keen', followed by a horizontal line.

Shelley Walter Keen  
Water Rights Supervisor

Enclosure

c: Jim Speck

MICROFILMED

JAN 12 1998

**Petition For Reconsideration  
Amended License for Water Right No. 63-10560**

RECEIVED

JUL 25 1997

Department of Water Resources

Date: July 23, 1997

To: Shelly Keen  
Idaho Department of Water Resources  
1301 N. Orchard  
Boise, Id 83706

From: Mark Johnson - Water rights committee member, Paradise Homeowners  
Association Board

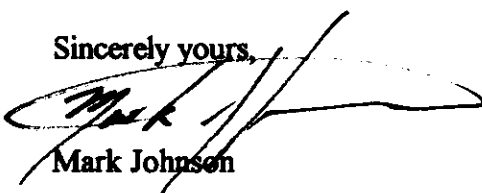
Dear Mr. Keen:

I understand that under Idaho code 67-5243, the Paradise Homeowners Association (PHOA) has until July 29, 1997, to meet the time restrictions for reconsideration of a preliminary order on the above referenced amended license.

I am writing to request an additional 2-4 weeks of time for collection of pertinent historical data related to this matter. There will be a general meeting of the membership of the PHOA on Saturday July 26, 1997, and we will have a chance to collect information in person/on sight, I would appreciate the additional time to complete our research of this License.

I will call you during the second week of August to set a meeting where we can finalize our preparation for this Amended License.

Sincerely yours,



Mark Johnson

CC: Larry Johnson, Jim Speck

MICROFILMED

JAN 12 1998

I R-DEPARTMENT MEMO--1

FROM Kari Lynn

DATE 7-18-97

TO File 63-10560

SUBJECT Jay - license

Per Shelley's request, I faxed a copy of the WIZ license to Jim Speck.

MICROFILMED

JAN 12 1998

Kari Lynn  
SIGNATURE



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

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

July 15, 1997

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

RE: WATER RIGHT NO. 63-10560

Dear Water Right Holder(s):

I have enclosed a copy of the amended license for water right 63-10560. The amended license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

**PETITION FOR RECONSIDERATION**

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

**EXCEPTIONS AND BRIEFS**

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

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

### ORAL ARGUMENT

If the Department grants a petition to review 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.

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JAN 12 1988

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 5/-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,

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

Shelley W. Keen  
Water Rights Supervisor

SK:klt

Enclosure

MICROFILMED

JAN 12 1968

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of July, 1997, I mailed  
a true and correct copy, postage prepaid, of the foregoing  
**PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

**Water Right No. 63-10560**

PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

  
Kari Lynn Townsend  
Secretary

MICROFILMED

JAN 12 1998

## MEMORANDUM

**TO: File**

**FROM: Sharla**

**DATE: July 2, 1997**

**RE: Documentation for Amended License**

The affidavits sent in by Jim Speck for justification of amending the license to include stubbed-in units for heating use have been reviewed and it has been decided to amend the license.

The original recommendations for heating rate and volume were based on the "measurements" of a combined flow of 0.64 cfs. The modified rate recommendation was re-calculated based on an energy efficiency of 0.67 and using the guidelines in Application Processing Admin. Memo #23. The volume was then figured using the reduced flow rate and allowing 12 hrs/day, 180 days/year.

To amend the license, the following items must be changed:

- a) rate of diversion for heating use changed to 0.43 cfs
- b ) volume for heating use changed to 76.8 af
- c) remark # 7 changed to show 43 homes, a lodge, a shop and 11 cabins

The figures in a) and b) were calculated using the same guidelines referenced above from the Admin. Memo. as follows:

$$.67 \times 78 \times 64,000 = 3,344,640 / [500 \times 34.8] = 192.2 \text{ gpm} = 0.43 \text{ cfs}$$

$$.43 \times 448.8 \times 60 \times 12 = 138,948.5 \text{ gpd} \times 180 / 325,850 = 76.8 \text{ af}$$

The figure of 64,000 sq. ft. was determined by the average square footage allowed under the examiner's original calculations (43,000/33 units = approximately 1300 sq. ft. per unit. The amended license will be for 45 units (homes, lodge and shop) using the same average AND using an average of 500 sq. ft. for the 11 cabins.

MICROFILMED

JAN 12 1998

**HOGUE, SPECK & AANESTAD**

A PROFESSIONAL ASSOCIATION  
ATTORNEYS

TERRY G. HOGUE  
JAMES P. SPECK  
DOUGLAS J. AANESTAD  
TRACY DUNLAP  
MICHELE C. MESKE

120 EAST AVENUE  
POST OFFICE BOX 987  
KETCHUM, IDAHO 83340  
(208) 726-4421  
FAX (208) 726-0752

HAILEY OFFICE:  
16 WEST CROY STREET  
SUITE K  
POST OFFICE BOX 460  
HAILEY, IDAHO 83333  
(208) 788-3567  
FAX (208) 788-4230

June 30, 1997

RECEIVED

JUL 01 1997

Department of Water Resources

Ms. Shelly Keen  
Idaho Department of Water Resources  
1301 N. Orchard Street  
Statehouse Mail  
Boise, Idaho 83720-9000

**Re: Paradise Homeowners' Association, Inc. — License No. 63-10560**

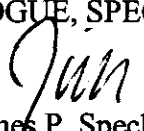
Dear Shelly:

Enclosed you will find a copy of the Affidavit of Norman Garlington concerning the construction of the hot water distribution system for the above-referenced water right. Mr. Garlington attests to the same facts set forth in the other affidavits I previously sent to you. What is the status of your re-evaluation of this license? I look forward to hearing from you soon.

Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.

  
James P. Speck

JPS:jal  
Enclosure  
c: Mark Johnson  
Larry Johnson

MICRO-FILMED

JAN 12 1998

RECEIVED  
JUL 01 1997  
Department of Water Resources

James P. Speck, Esq.  
HOGUE, SPECK & AANESTAD  
Post Office Box 987  
120 East Avenue  
Ketchum, Idaho 83340  
Telephone: (208) 726-4421  
Attorneys for Licensee

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNERS ) AFFIDAVIT  
ASSOCIATION, INC., )  
Licensee. )  
\_\_\_\_\_ )

STATE OF IDAHO )  
County of Ada ) SS.

NORMAN GARLINGTON, being duly sworn, under oath, deposes and states as follows:

1. I am now, and have been since 1981, the owner of Lot 24 of the Willis Carrie Paradise Subdivision (the "Subdivision") in Elmore County, Idaho. I am over the age of eighteen and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hot water for heating, domestic and recreation purposes from the springs situated on lands immediately east of the Subdivision and now owned by the Paradise Homeowners Association, Inc., the holder and licensee of Water Right License No. 63-10560 (the "License").

3. Prior to August, 1988 the system was constructed with stub-outs to Lots 1 through 35 and 39 through 46 of the Subdivision, a total of 43 lots. Cabins had been constructed, the system was extended to and the water was being used for heating on approximately twenty-four of those

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AFFIDAVIT - 1

JAN 12 1998

lots. At that time the system also provided hot water heating for the lodge and four cabins on Lot 38 where the swimming pool is situated, and to seven cabins and a shop building on lots in the Grouse Creek Subdivision to the south of the Subdivision.

4. The License should cover all of the above-described uses, including all of the Lots to which the system was stubbed out, since these were developed prior to August, 1988.

DATED: 6-11-97

Norman Garlington  
NORMAN GARLINGTON

SUBSCRIBED AND SWORN TO before me this 11 day of ~~April~~, 1997  
June (C<sub>2</sub>)

Cindy Bradsh  
Notary Public for Idaho  
Residing at: Boise  
Comm. Expires: 5/28/2003

FAWPDATA\JM\TSL\PHOA\H20A\FID.004

RECEIVED

JUN 10 1997

**HOGUE, SPECK & AANESTAD**

A PROFESSIONAL ASSOCIATION

ATTORNEYS

120 EAST AVENUE  
POST OFFICE BOX 987  
KETCHUM, IDAHO 83340  
(208) 726-4421  
FAX (208) 726-0752

TERRY G. HOGUE  
JAMES P. SPECK  
DOUGLAS J. AANESTAD  
TRACY DUNLAP  
MICHELE C. MESKE

Department of Water Resources  
HAILEY OFFICE:  
16 WEST CROY STREET  
SUITE K  
POST OFFICE BOX 460  
HAILEY, IDAHO 83333  
(208) 788-3567  
FAX (208) 788-4230

June 9, 1997

Ms. Shelly Keen  
Idaho Department of Water Resources  
1301 N. Orchard Street  
Statehouse Mail  
Boise, Idaho 83720-9000

**Re: Paradise Homeowners' Association, Inc. – License No. 63-10560**

Dear Shelly:

Enclosed you will find copies of the Affidavits of Michael Koelsch, Brad J. Christiansen, and Wes Farris, each of whom have owned properties in the Willis Carrie Paradise Subdivision since at least 1987. They are each familiar with the construction of the hot water distribution system, and by these Affidavits, are providing sworn testimony that stub-outs were provided to Lots 1 through 35 and 39 through 46, a total of 43 lots, prior to 1988. At that same time, the system also provided hot water heating for the lodge and 4 cabins on Lot 38 and 7 cabins and a shop building on lots in the Grouse Creek Subdivision to the south of the Paradise Subdivision.

I anticipate receiving additional Affidavits each attesting to the same facts. In the meantime, I hope you will consider this additional evidence and request that the license be amended accordingly. Please contact me if you have any questions. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.

TRANSCRIBED FROM TAPED DICTATION AND MAILED  
WITHOUT REVIEW OR SIGNATURE TO AVOID DELAY

James P. Speck

JPS:jrs  
c: Mark Johnson  
Larry Johnson

MICROFILMED  
JUN 12 1998

James P. Speck, Esq.  
HOGUE, SPECK & AANESTAD  
Post Office Box 987  
120 East Avenue  
Ketchum, Idaho 83340  
Telephone: (208) 726-4421  
Attorneys for Licensee

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNERS ) AFFIDAVIT  
ASSOCIATION, INC., )  
Licensee. )  
\_\_\_\_\_ )

STATE OF IDAHO )  
County of Elmore ) SS.

MICHAEL KOELSCH, being duly sworn, under oath, deposes and states as follows:

1. I am now, and have been since 1984, the owner of Lots 5 and 6 of the Willis Carrie Paradise Subdivision (the "Subdivision") in Elmore County, Idaho. I am over the age of eighteen and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hot water for heating, domestic and recreation purposes from the springs situated on lands immediately east of the Subdivision and now owned by the Paradise Homeowners Association, Inc., the holder and licensee of Water Right License No. 63-10560 (the "License").

3. Prior to August, 1988 the system was constructed with stub-outs to Lots 1 through 35 and 39 through 46 of the Subdivision, a total of 43 lots. Cabins had been constructed, the system was extended to and the water was being used for heating on approximately twenty-four of those

AFFIDAVIT - 1

MICROFILMED  
JAN 12 1998

lots. At that time the system also provided hot water heating for the lodge and four cabins on Lot 38 where the swimming pool is situated, and to seven cabins and a shop building on lots in the Grouse Creek Subdivision to the south of the Subdivision.

4. The License should cover all of the above-described uses, including all of the Lots to which the system was stubbed out, since these were developed prior to August, 1988.

DATED: 5-16-97

Michael Koelsch  
MICHAEL KOELSCH

SUBSCRIBED AND SWORN TO before me this 16 day of <sup>May</sup>~~April~~, 1997.

Beggy L. Engelhardt  
Notary Public for Idaho  
Residing at: Mtn Home, Id  
Comm. Expires: 9-15-99

FAWPDATA\JIM\TSL\PHOA\H2O\AFFID.009

James P. Speck, Esq.  
HOGUE, SPECK & AANESTAD  
Post Office Box 987  
120 East Avenue  
Ketchum, Idaho 83340  
Telephone: (208) 726-4421  
Attorneys for Licensee

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNERS ) AFFIDAVIT  
ASSOCIATION, INC., )  
Licensee. )  
\_\_\_\_\_ )

STATE OF IDAHO )  
County of ELMORE ) SS.

BRAD J. CHRISTIANSEN, being duly sworn, under oath, deposes and states as follows:

1. I am now, and have been since MAY of 1983, the owner of Lot 2 of the Willis Carrie Paradise Subdivision (the "Subdivision") in Elmore County, Idaho. I am over the age of eighteen and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hot water for heating, domestic and recreation purposes from the springs situated on lands immediately east of the Subdivision and now owned by the Paradise Homeowners Association, Inc., the holder and licensee of Water Right License No. 63-10560 (the "License").

3. Prior to August, 1988 the system was constructed with stub-outs to Lots 1 through 35 and 39 through 46 of the Subdivision, a total of 43 lots. Cabins had been constructed, the system was extended to and the water was being used for heating on approximately twenty-four of those

MICROFILMED  
JAN 12 1988

lots. At that time the system also provided hot water heating for the lodge and four cabins on Lot 38 where the swimming pool is situated, and to seven cabins and a shop building on lots in the Grouse Creek Subdivision to the south of the Subdivision.

4. The License should cover all of the above-described uses, including all of the Lots to which the system was stubbed out, since these were developed prior to August, 1988.

DATED: 5-2-97

Brad J. Christiansen  
BRAD J. CHRISTIANSEN

SUBSCRIBED AND SWORN TO before me this 2<sup>nd</sup> day of <sup>May</sup>~~April~~, 1997.

Mary Lou Lunsden  
Notary Public for Idaho  
Residing at: Mtn. Home, ID  
Comm. Expires: May 31st 2000

FAWPDATA\JM\TSL\PHOAH20AFFID.002

James P. Speck, Esq.  
HOGUE, SPECK & AANESTAD  
Post Office Box 987  
120 East Avenue  
Ketchum, Idaho 83340  
Telephone: (208) 726-4421  
Attorneys for Licensee

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
LICENSE NO. 63-10560 IN THE NAME OF )  
PARADISE HOMEOWNERS ) AFFIDAVIT  
ASSOCIATION, INC., )  
Licensee. )  
\_\_\_\_\_ )

STATE OF IDAHO )  
County of Elmore ) SS.

WES FARRIS, being duly sworn, under oath, deposes and states as follows:

1. I am now, and have been since July 25, 1987, the owner of Lots 22 and 23 of the Willis Carrie Paradise Subdivision (the "Subdivision") in Elmore County, Idaho. I am over the age of eighteen and competent to testify to the matters set forth below.

2. I am familiar with the system which distributes hot water for heating, domestic and recreation purposes from the springs situated on lands immediately east of the Subdivision and now owned by the Paradise Homeowners Association, Inc., the holder and licensee of Water Right License No. 63-10560 (the "License").

3. Prior to August, 1988 the system was constructed with stub-outs to Lots 1 through 35 and 39 through 46 of the Subdivision, a total of 43 lots. Cabins had been constructed, the system was extended to and the water was being used for heating on approximately twenty-four of those

MICROFILMED

lots. At that time the system also provided hot water heating for the lodge and four cabins on Lot 38 where the swimming pool is situated, and to seven cabins and a shop building on lots in the Grouse Creek Subdivision to the south of the Subdivision.

4. The License should cover all of the above-described uses, including all of the Lots to which the system was stubbed out, since these were developed prior to August, 1988.

DATED: April 29, 1997

Wes Farris  
WES FARRIS

SUBSCRIBED AND SWORN TO before me this 29 day of April, 1997.

Michelle Palmer  
Notary Public for Idaho  
Residing at: Bellevue, Idaho  
Comm. Expires: 10/25/98

FAWPDATA\JM\TSL\PHOA\H2O\AFFID.003

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APR 24 1997

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION  
ATTORNEYS

120 EAST AVENUE  
POST OFFICE BOX 987  
KETCHUM, IDAHO 83340  
(208) 726-4421  
FAX (208) 726-0752

Department of Water Resources

HAILEY OFFICE:  
16 WEST CROY STREET  
SUITE K  
POST OFFICE BOX 460  
HAILEY, IDAHO 83333  
(208) 788-3567  
FAX (208) 788-4230

TERRY G. HOGUE  
JAMES P. SPECK  
DOUGLAS J. AANESTAD  
TRACY DUNLAP  
MICHELE C. MESKE

April 23, 1997

Ms. Shelly Keen  
Idaho Department of Water Resources  
1301 N. Orchard Street  
Statehouse Mail  
Boise, Idaho 83720-9000

Re: Paradise Homeowners Association, Inc. -- License No. 63-10560

Dear Shelly:

We have now reviewed the construction of the hot water system with several homeowners within the subdivision who are familiar with the project. I have prepared and sent out for signature affidavits which will support our position that the system was complete and stubbed out to a total of 43 lots within the subdivision, to the lodge, four cabins and swimming pool on Lot 38, and to seven cabins and a shop building on lots in Grouse Creek Subdivision to the south of our subdivision, all prior to August 1988. As soon as these affidavits are received, I will send them to you with a formal request to amend the license accordingly. As I will be out of the office until May 12, 1997, you will probably not receive this information until later than month.

Thank you for your continuing cooperation, assistance and patience in this matters.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.

  
James P. Speck

JPS:rb

MAILED  
MAY 1 1997

## MEMORANDUM

**DATE:** March 19, 1997

**TO:** File 63-10560

**FROM:** Shelley W. Keen <sup>SK</sup>

**RE:** Phone conversation with Jim Speck

---

This morning Jim Speck called to discuss licensed water right 63-10560. He is interested in obtaining an amended license which gives credit for some lots that he says were stubbed in at the time of the field exam. I told Mr. Speck that if he were to compile and present additional information I would review it.

**HOGUE, SPECK & AANESTAD**  
A PROFESSIONAL ASSOCIATION OF  
ATTORNEYS

TERRY G. HOGUE  
JAMES P. SPECK  
DOUGLAS J. AANESTAD  
TRACY DUNLAP  
MICHELE C. MESKE

120 EAST AVENUE  
P. O. BOX 987  
KETCHUM, IDAHO 83340  
(208)726-4421  
FAX (208)726-0752

HAILEY OFFICE:  
16 WEST CROY STREET  
SUITE K  
POST OFFICE BOX 460  
HAILEY, IDAHO 83333  
(208) 788-3567  
FAX (208) 788-4230

March 18, 1997

**VIA FACSIMILE - (208) 327-7866**  
**ORIGINAL WILL NOT FOLLOW**

Mr. Shelly Keen  
Idaho Department of Water Resources  
1301 North Orchard Street  
Statehouse Mail  
Boise, ID 83720-9000

***Re: Paradise Homeowners Association, Inc. - License 63-10560***

Dear Shelly::

Paradise Homeowners Association, Inc. has asked me to assist them in amending License 63-10560 to account for the full extent of development as of August 2, 1988. Earl Jackson is no longer president and the new board of directors is concerned that you were not provided with the information you requested in your December 4, 1995 letter to Mr. Jackson. My client has not been able to locate as-built drawings, but other members have confirmed the stub-ins as described in Mr. Jackson's November 28, 1995 letter to you. Will an affidavit to that effect be sufficient? Must we file any kind of formal request for the amendment at this time?

Please call at your earliest convenience to discuss this. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.



James P. Speck

JPS/j

cc: Mark Johnson (726-8015)

11080-11460  
MAR 26 1997



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

January 31, 1996

PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

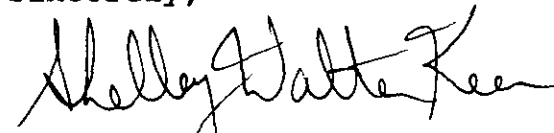
RE: WATER RIGHT NO. 63-10560

Dear Water Right Holder(s):

Enclosed is a copy of the Water Right License issued on the above referenced permit along with a copy of your approved Application for Amendment.

Should you have any questions regarding these documents, please contact me.

Sincerely,



Shelley W. Keen  
Water Rights Supervisor

SK:rl

Enclosure

RECEIVED

FEB 23 1996

## MEMORANDUM

**DATE:** January 26, 1996

**TO:** File 63-10560

**FROM:** Shelley W. Keen *SWK*

**RE:** No response to request for additional information

=====

Licensing of permit 63-10560 has been delayed because the number of homes that should be credited under the heating use has been questioned. I requested additional evidence to support additional homes on 6/1/95, on 10/23/95, and on 12/4/95. Unsatisfactory information was supplied in response to the 10/23/95 request. I have received no response to my 12/4/95 request. Because additional information has been repeatedly requested without a satisfactory response, I recommend issuing the license for 31 homes as recommended by the field examiner.

*RECEIVED*

FEB 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

December 4, 1995

EARL B JACKSON  
PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

RE: Water Right No. 63-10560

Dear Mr. Jackson:

Thank you for responding to my 10/23/95 letter. The required amendment fee has been paid. The only matter to be resolved before a license can be issued appears to be the number of domestic units to be covered on the heating portion of the license.

In your letter dated 11/28/95, you said that the original system supplied water to 43 home lots, one lodge, four cabins, and a shop. The field examiner who prepared the report verifying your use of water indicated that the system served 33 existing domestic units at the time of his exam. The 33 were comprised of 31 homes, 1 lodge, and 1 shop. The difference should be reconciled by convincing evidence, which may include such items as as-built drawings, notarized affidavits, maps, photographs, receipts, etc. If you can submit convincing evidence to show that lines were stubbed in to some or all of the additional lots prior to August 2, 1988, even if no homes had been built on those lots, the license issued for this right may include the use of water to heat those domestic units.

Please submit any evidence you may have to support the additional heating use within fourteen (14) days. If you have any questions, please contact me at 208-327-7946 in Boise.

Sincerely,

Shelley Walter Keen  
Water Rights Supervisor

SWK

cc: Jim Speck

FEB 23 1996

PARADISE HOMEOWNERS ASSOCIATION  
HC-87 BOX 410  
MTN. HOME, IDAHO 83647

November 28, 1995

Shelley Walter Keen  
Water Rights Supervisor  
Idaho Dept. of Water Resources  
1301 No. Orchard St.  
Boise, Idaho 83720-9000

RECEIVED

DEC 01 1995

Department of Water Resources

Re: Water Right No. 63-10560  
Re: Your Ltr. dtd. 10/23/95

Dear M's Keen:

I apologize for not answering your letter sooner, but a number of personal and business matters have prevented me from doing so.

Prior to August 2, 1988 the Hot Water distribution system was piped and stubbed into Lots 1 through 35 and Lots 39 through 46, a total of 43 lots. This Hot Water system also supplied Lot 38 (One Lodge & four cabins) and one shop building from the eastern spring located just north of Lot 23 next to Grouse Creek.

A new Hot Water distribution system was completed November 1, 1989 to supply Lots 39 through 53. The spring supplying this new system is located on Lot 38. The old Hot Water system supplying Lots 39 through 46 was abandoned.

The original systems were installed sometime in the early 1980's for which I have no records. For the new system going on line in 1989, I have invoices and labor records.

Please advise what is considered good evidence to support additional domestic use.

Thank you very much for your help and assistance.

Sincerely,



Earl B. Jackson

cc. Bruce Thomas, Att.

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

October 23, 1995

PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

RE: Water Right No. 63-10560

Dear Water Right Holder:

I am returning the application for amendment of permit you submitted to the department in June for water right 63-10560. You had already submitted the necessary application for amendment in August of 1994.

Please note, however, that on July 1, 1994, the legislature imposed a new fee schedule for the department. The filing fee for an application to amend a permit was raised from \$20.00 to \$50.00. In August of 1994 you submitted \$20.00 with your application for amendment, and you submitted \$20.00 with the application for amendment that I am returning to you. Therefore, an additional \$10.00 is required to meet the \$50.00 amendment fee.

The field examiner who prepared the report verifying your use of water indicated that the system served 33 domestic units at the time of his exam. The 33 were comprised of 31 homes, 1 lodge, and 1 shop. It has come to our attention, however, that you may have had lines stubbed in to an additional 7 lots by the time you submitted proof of beneficial use on August 2, 1988. Based on the information from the field examiner, I am recommending that a license be issued for 33 domestic units. However, if you can submit good evidence to show that lines were stubbed in to some or all of the 7 additional lots prior to August 2, 1988, even if no homes had been built on those lots, the license issued for this right may include those lots as domestic units.

Please submit the additional \$10.00 and any good evidence you may have to support the additional domestic use within fourteen (14) days.

*No evidence submitted - SWK 11/29/95*

FEB 23 1996

Paradise Homeowners Assoc., Inc.  
Re: Water Right No. 63-10560  
October 23, 1995  
Page 2

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

Sincerely,

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

Shelley Walter Keen  
Water Rights Supervisor

SWK  
Enclosure

RECEIVED  
FEB 23 1996

RECEIVED

JUL 25 1995

Department of Water Resources

HAILEY OFFICE:  
16 WEST CROY STREET  
SUITE K  
POST OFFICE BOX 460  
HAILEY, IDAHO 83333  
(208) 788-3567  
FAX (208) 788-4230

HOGUE, SPECK & AANESTAD  
A PROFESSIONAL ASSOCIATION  
ATTORNEYS

120 EAST AVENUE  
POST OFFICE BOX 987  
KETCHUM, IDAHO 83340  
(208) 726-4421  
FAX (208) 726-0752

TERRY G. HOGUE  
JAMES P. SPECK  
DOUGLAS J. AANESTAD  
TRACY DUNLAP

July 24, 1995

Mr. Shelly Keen  
Idaho Department of Water Resources  
1301 North Orchard Street  
Statehouse Mail  
Boise ID 83720-0098

Re: Permit No. 63-10560  
Paradise Homeowner's Association, Inc. (PHOA)

Dear Shelly:

The attorney for PHOA has explained to me that his client will take care of providing to you proof that the delivery system was in place and stubbed in to all the lots in the subdivision on or before August 2, 1988. Please continue to keep me apprised of the status of the licensing of this Permit as my client, Trinity Springs, Ltd., owns a significant portion of the permitted and proposed to be licensed place of use.

Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.



James P. Speck

JPS:sab  
cc: Mark Johnson (TSL)  
Bruce Thomas, Esq.

FEB 23 1996

**HOGUE, SPECK & AANESTAD**

A PROFESSIONAL ASSOCIATION  
ATTORNEYS

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HAILEY, IDAHO 83333  
(208) 788-3567  
FAX (208) 788-4230

June 9, 1995

**VIA FACSIMILE TO: 208-327-7866**

Mr. Shelly Keen  
Idaho Department of Water Resources  
1301 North Orchard Street  
Statehouse Mail  
Boise ID 83720-0098

RECEIVED  
JUN 12 1995  
Department of Water Resources

Re: Permit No. 63-10560  
Paradise Homeowner's Association, Inc. (PHOA)

Dear Shelly:

As you know from our previous telephone conversation, I represent Trinity Springs, Ltd., the owner of Lot 38 and two of the residential lots in the Paradise Subdivision. I contacted you in April to discuss the status of licensing Permit No. 63-10560 issued to PHOA. I was concerned that the beneficial use field report prepared in 1991 did not propose to allow the use of water for heating new homes to be constructed within the subdivision even if stubins to provide the hot water service had been constructed. Last week you indicated that use of water on lots with stubins would possibly be approved if we can establish that the stubins were in place prior to the date PHOA filed proof of beneficial use (August 2, 1988). I have requested that information from the attorney representing PHOA, but he is out of the office and will not return until June 12, 1995. I will try to get back to you as soon as possible after his return to the office.

Thank you for your continuing cooperation and assistance in these matters.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.



James P. Speck

JPS:sab  
cc: Mr. Mark Johnson  
Mr. Bruce Thomas

FEB 23 1995

**M E M O R A N D U M**

**DATE:** June 1, 1995

**TO:** File 63-10560

**FROM:** Shelley W. Keen *SWK*

**RE:** Stubbed-in Lots

=====

Jim Speck, attorney for the applicant, had called earlier to inquire why lots stubbed-in but not built upon are not to be included under the portion of License 63-10560 dedicated to heating purposes. I called Mr. Speck today to inform him that they are not included because the field examiner reported only the 33 lots with existing homes. I told Mr. Speck that we would consider lots stubbed in prior to July 26, 1988, the date proof of beneficial use was submitted. He said he would try to provide some evidence by next week.

**MISSOURI MED**

FEB 23 1996

**MEMORANDUM**

**Date:** September 5, 1994  
**From:** Jim Johnson  
**To:** File  
**Subject:** License review

=====

The volumes for Heating and Recreation was not included on the license because inadequate data available to determine the annual rate. The annual volumes estimates contained in the file appear to be excessively high. At this point no regulation of the uses are occurring and the need for future regulation is unlikely. A condition should be added to the license that allows installation of totalizing meter to determine the annual volume use.

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FEB 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

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

July 22, 1994

EARL B JACKSON  
PARADISE HOMEOWNERS ASSN INC  
HC 87 BOX 410  
MOUNTAIN HOME ID 83647

RE: WATER RIGHT NO. 63-10560

Dear Mr. Jackson:

Thank you for the information you sent us concerning the changes made in your development since the field examination in November of 1989. We have to have a cut-off point to assess the amount of development completed on a permit; therefore, our normal procedure is to recommend licensing permits based on the field examination information. Any changes made after that date are not usually recommended on the license.

After a permit is licensed, any changes made (other than an increase in diversion rate) can be accomplished through the transfer process. If you want to divert additional water, a new application for permit would be required.

We have allowed the heating requirement to be adjusted to the current use; however, it can not exceed the measured amount of .64 cfs.

Please review the enclosed adjusted amendment carefully and if you concur, sign the amendment and return with the \$20.00 filing fee within 14 days. If you do not concur with this information, please contact me as soon as possible.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jim Johnson', with a long horizontal flourish extending to the right.

JIM JOHNSON, Manager  
Water Right Permits Section

JJ:dc

Enclosures

FILED  
JUL 23 1994

PARADISE HOMEOWNERS ASSOCIATION, INC.  
P.O. BOX 1485  
BOISE, ID. 83701

RECEIVED  
APR 26 1994  
Department of Water Resources

April 24, 1994

Mr. Jim Johnson, Water Rights Supervisor  
Idaho Dept. of Water Resources  
Statehouse Mail  
Boise, Id. 83720-9000

Re: Water Right No. 63-10560

Dear Mr. Johnson:

Received the Application for Amendment which needs to be up dated to our current Hot Water Systems and useage. The amendment is based on the Field Survey dated November 18, 1987 which is outdated. I discussed this matter on the telephone with Brenda Chapman on April 21, 1994 and per the discussion I am enclosing the current data.

I am available to discuss this matter personally at any time after your review of the data. If further information is needed, please contact me at 208-653-2260 or send me a letter to my address which is  
HC-87 Box 410 Mtn. Home, Id. 83647

Please note the change in the Association address shown above.

Sincerely,

PHOA

  
Earl B. Jackson, President

cc Brenda Chapman IDWR

Enclosure

  
FEB 23 1996

PA ISE HOMEOWNERS ASSOCIATION, IN

Update of Field Survey dated November 18, 1987

I. There has been no change in Domestic or Recreation use of the Hot Spring Water.

II. Spring No. 1 ; Pump Station No. 1

1. The temperature at the Spring and Pump Station is 128 F..
2. A new pump station located 100 ft. from the spring was completed in October 1993.
3. One new 4" and one new 2" insulated line have been installed to supply the water from the spring to the pump station. The pumps have a 6 ft. head at the intake.
4. Three 2 Hp. pumps are installed to supply the water for all the units connected to Spring # 1. The pumps have a 40 gpm capacity @ 55 psi.
5. The pumps run continuously all year. There is only gravity flow from the spring to the pump station.
6. Pump Piping.
  - a. Pump # 1 discharges into a 3½" line that supplies Lot 38 and facilities beyond.
  - b. Pump # 2 discharges into a 2" line supplying Lots 1 thru 7 & 25 thru 35 ( 18 Lots ).
  - c. Pump # 3 discharges into a 2" line supplying Lots 8 thru 24 ( 17 Lots ).
  - d. At the present time only pump # 2 or # 3 is on line to supply the existing Homes/Cabins.
7. Water Return.
  - a. The return water from the Homes/Cabins is discharged into the Swimming Pool on Lot 38.
  - b. The return water from Lot 38 and beyond is discharged into Grouse Creek.
8. Facilities Supplied by Spring # 1.

|                                                                          |    |
|--------------------------------------------------------------------------|----|
| a. Homes or Cabins                                                       | 17 |
| b. Lodge on Lot 38                                                       | 1  |
| c. Cabin units on Lot 38                                                 | 7  |
| d. Hot Tubs on Lot 38                                                    | 3  |
| e. Grouse Creek Cabins                                                   | 6  |
| f. Home and Mobile Home on west side of Featherville Rd.                 | 2  |
| g. Shop Bldg. 20 X 40 ft. on So. side of Grouse Creek (6 mon./yr.)       |    |
| h. Cold Water Pump Station on west side of Featherville Rd. (6 mon./yr.) |    |

III. Spring No. 2

1. The Spring temperature is 139 F..
2. Pump Station # 2 is supplied by a 2" line with a head pressure of 8 ft. at the pump.
3. One 2 Hp. pump supplies Lots 39 thru 53 (15 Lots ). The pump has a capacity of 40 gpm @ 55 psi and discharges into a 2" line.
4. The pump runs continuously all year.
5. The return water line is presently discharged into Grouse Creek, but can be diverted to the Lot 38 Swimming Pool.
6. Spring # 2 supplies 7 Homes/Cabins.

FEB 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

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

April 11, 1994

PARADISE HOMEOWNERS ASSN INC  
C/O ROCKY BAR STAGE  
HC 87 BOX 42  
MOUNTAIN HOME ID 83647

RE: WATER RIGHT NO. 63-10560

Dear Water Right Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to correspond with the findings of the Department's field examiner.

The enclosed Application for Amendment contains information that will be included on the license when it is issued. The amendment reflects a change in the location of the point(s) of diversion. Please review carefully and if you concur, sign the amendment and return with the \$20.00 filing within 14 days.

The last page of the Application for Amendment form contains a list of CONDITIONS/REMARKS proposed for the license when it is issued. These conditions/remarks may be modified upon further administrative review.

If you do not concur with this information, or have any questions please contact me as soon as possible. My telephone number is (208) 327-7947.

Sincerely,

JIM JOHNSON  
Water Rights Supervisor

JJ:dc

Enclosure

MEMORANDUM

TO: JIM JOHNSON  
FROM: STEVE LESTER *SL*  
DATE: JANUARY 3, 1992  
SUBJECT: ADDENDUM TO 4/30/91 MEMO FOR FIELD EXAM 63-10560

This addendum clarifies information contained in the 4/30/91 memo that summarized the flow and volume calculations used in license recommendations for Permit 63-10560. A gross error was made in using Admin. Memo 23 for heating calculations. The value for energy efficiency (e) should be 0.67 instead of 52.6!!

1. Therefore, per Admin. Memo 23:

$$E = .67 \times 78 \times 43,000^A = 2,247,180 \text{ BTU PER REQ} \quad E = c \Delta T A -$$

$$\text{FLOW RATE } W = 2,247,180 / [500 \times 34.8] = 129.1 \text{ gpm} = .29 \text{ cfs} \quad w = E / (500 \Delta T)$$

The maximum beneficial use for heating is .29 cfs instead of .64 cfs previously recommended. Heating volume must be recalculated using .29 cfs.

2. Using the same assumptions in the earlier memo, heating volume follows:

$$.29 \times 448.8 \times 60 \times 12 = 93,709.44 \text{ gallons per day}$$

$$[93,709.44 \times 180] / 325850 = 51.8 \text{ afa} \quad \text{compare this to}$$

$$.29 \times 365 \times 1.9835 = 210.0 \text{ afa} \quad \text{recommend 51.8 afa}$$

3. The total license recommendation is:

|            |           |         |           |
|------------|-----------|---------|-----------|
| Domestic   | 1/1-12/31 | .05 cfs | 1.0 afa   |
| Heating    | 1/1-12/31 | .29 cfs | 51.8 afa  |
| Recreation | 1/1-12/31 | .35 cfs | 62.5 afa  |
| Total      |           | .64 cfs | 115.3 afa |

(where .64 cfs is system capacity)

Copies of this addendum were mailed to Earl Jackson, Pres. Paradise Homeowners Assoc., and to Stan Acker and Jock Bell of Trinity Springs, Ltd. due to their interest in the license recommendations (already have copies of field exam and I thought they should have the updated information).

*CALCULATIONS LOOK OKAY BUT QUESTION HOW THE SQ FEET VALUE WAS DETERMINED - G.E.H.*



State of Idaho  
DEPARTMENT OF WATER RESOURCES

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

63-10560

September 19, 1991

Stan Acker and Jock Bell  
Trinity Springs, Ltd.  
PO Box 1630  
Ketchum, ID. 83340

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

RE: Water Rights in Willis Carrie's Paradise Subdivision

Dear Stan and Jock:

As you requested during our meeting yesterday, I am sending general information on water right processes and specific information on rights associated with Lot 38, Block 1 of the subdivision. I hope the information clarifies some questions that may arise during your board meeting.

Except for Applications for Permit and for approved Water Right Permits to establish new water rights, other types of water rights are appurtenant to the land described in the rights. In contrast, applications and permits are personal property owned by the applicant or permittee.

General Water Right Information

The diversion and beneficial use of surface water prior to 5/20/1971 can be considered an historical or grandfather use. Diversion and beneficial use of ground water prior to 3/25/1963 can be considered an historical or grandfather use. These dates reflect the implementation of the mandatory permit statutes requiring water right permits for new development after the specified date. Some uses are exempt from water right requirements. Exempt uses are defined in Idaho Code 42-111 and generally include minor uses described as domestic.

Statutory Claims, based on and named for Idaho Code 42-243, are claimed rights based on historical use. These are also known as grandfather or beneficial use rights. These claims are not verified by the department unless an adjudication (court action to summarize water rights within a specified area) occurs. Statutory claims can no longer be filed except for a few situations.

Permits are approved water right applications to develop and use water where first use occurred or will occur after the dates discussed above. A permit is personal property and is not attached to the land. A specified amount of time is allowed to develop the diversion and beneficial use proposed in a permit. Once developed and put to use, a department examiner or a certified private examiner conducts a field exam to verify the water development. A water right license is then issued. Licenses are appurtenant to the property where water is used (the place of use). However, if the development did not occur and the permittee did not obtain an approved extension of time to complete the development, the permit will lapse or be cancelled.

RECORDED

FEB 23 1996

63-10560  
COPY

In an adjudication, most uses of water, whether or not such uses were previously recorded, must be recorded by filing adjudication claims. Again, exempted uses do not have to be recorded but can be recorded. Most of Idaho is currently involved in the Snake River Basin Adjudication (SRBA) that requires most water users to file adjudication claims to claim their water rights. **Historical uses that are not covered by statutory claims can be protected by filing adjudication claims.** Most existing water uses covered by statutory claims, permits, licenses, or court decreed rights must be protected by filing adjudication claims to claim the rights. This department assists in filing claims, reviews and verifies claims, and recommends the claims in one form or another to the court. Unclaimed rights or uses are not recommended as valid water rights. The court then considers the recommendations and any other pertinent information introduced within the adjudication process and finally adjudicates the rights. The water users obtain decreed rights from the court through this process. Therefore, statutory claims, permits, licenses, and adjudication claims based on valid information can be "ripened" into decreed rights.

Specific Water Right Information, Especially for Lot 38, Block 1

The rights related to the subdivision are statutory claim #63-04221 (Grouse Creek), permit #63-10559 (two wells), and permit #63-10560 (two hot springs). The permits are in the licensing process since field exams were conducted on 11/16/1989. Therefore, all three rights can be considered appurtenant to the property. When a split in land ownership occurs, appurtenant rights are automatically split on a prorata basis unless all or any portion of the rights are legally withheld or moved to other property.

An example of a possible grandfather right not previously recorded by a statutory claim that could be recorded by filing an adjudication claim is found at the recreation pond west of the highway and next to the two wells. If the pond was present prior to 5/20/1971, an adjudication claim should be filed to protect the diversion of the water. Otherwise, no valid right will be decreed for the pond and an illegal use of water will occur.

Turning to Lot 38, what rights are found there? A portion of rights 63-04221, 63-10559, and 63-10560 are reasonably considered to be appurtenant to Lot 38. The portion of each right attached to Lot 38 depends on the beneficial use described in the right and the percent of that use found on Lot 38 when compared to the remainder of the place of use. An example follows.

Claim #63-04221 was examined with a field inspection on 7/18/1991 because a transfer application was filed to change the right. Because the right is one that has not been previously verified, the extent of beneficial use developed under the claim had to be determined. The examiner found .11 cfs (49 gpm) for 3.7 acres of irrigation and .36 cfs (162 gpm) for cooling of the swimming pool and associated tubs for the Grouse Creek water development. The total rate of flow for the entire creek diversion was estimated to be .36 cfs. Lot 38 includes 49% of the irrigated area and 100% of the cooling use for the place of use for claim 63-04221. Therefore, a reasonable conclusion is that Lot 38 is entitled to 49% of 3.7 acres of irrigation and 100% of the cooling use.

FEB 29 1992

This translates to 1.8 acres of irrigation with .05 cfs (22 gpm) and .36 cfs for cooling, and the total does not exceed .36 cfs. The remainder of the right would be considered appurtenant to the rest of the place of use (.06 cfs for 1.9 acres of irrigation). As with any water right recommendation made by the department, the results can be challenged by the users.

Once licenses are issued for 63-10559 and 63-10560, the portion of the licenses reasonably considered to be attached to Lot 38 can be determined in a similar manner. Due to a technicality in the adjudication process, adjudication claims do not have to be filed for these permits. Adjudication claim #A63-04221 was filed to protect statutory claim #63-04221.

Permit 63-10560 was filed and approved for 1.29 cfs or 579 gpm from the hot springs. The field examiner's recommendation included up to .64 cfs or 287 gpm. If more than .64 cfs is produced by the hot springs, the additional water can be considered available for new appropriations (new permits). Likewise, any water claimed from Grouse Creek but not recognized in the SRBA as a legitimate right can be considered available for new appropriations assuming that the creek flow is adequate to allow new rights to be developed. Also, new applications for Grouse Creek water can be filed and considered for approval at any time.

New appropriations for consumptive use of water that is considered tributary to the Boise River system face complications relating to existing water rights in the river basin. Essentially, any new right using such water for consumptive purposes must include a method to make up the loss to the river system to prevent injury to senior rights utilizing the river water. Tributary waters include surface water and possibly ground water.

I hope this information clarifies some of your questions. Please contact this office if you need more information.

Sincerely,



Steve Lester  
Sr. Water Resource Agent

FILED

# MEMORANDUM

TO: FILE 63-10560  
 FROM: STEVE LESTER  
 DATE: APRIL 30, 1991  
 SUBJECT: FIELD EXAM REPORT - EXPLANATION OF DEVELOPMENT & FLOW CALCULATIONS

Hot water flows from two areas, P/D #1 near the east end of subdivision and P/D #2 at the pool. The pool actually is the site of several (undefined #) springs that seep and flow and collect in the pool. Considerable flow occurs at the pool but is not measurable.

P/D #1 delivers water from a collection culvert to a pump station about 100' SW of spring. Delivery to the P/U occurs via two booster pumps to homes uphill and S/SW of station or to lodge area and homes to the west via a 4" gravity line. Return flow from heated units collects in the pool via at least four observed pipes ranging from 3/4" to 1.5" on south side of pool. Also, the 4" gravity line ends at the pool.

P/D #2 is a collection of several springs at the pool. This water is co-mingled with spring #1 water and can be routed via a 16" pipe to pump station #2 to supply hot water to 5 homes bordering the highway in the NE part of the subdivision (specific lot numbers unknown).

## Estimating Flows

1. Three lines from P/D #1 run from the springbox to the pump station. Two 2" lines are connected to the pumps, and a 4" gravity line is found. HP equations for the pumps yield the following:

Jacuzzi 1.5 hp, pump #7086 and Jacuzzi 1 hp, pump #7E84  
 assume low pressure similar to domestic, 20 psi  
 z measured as 100' along length of mainlines from P/D to pumps

$$Q = [(8.8)(.7)(2.5)] / [(2.31)(20) + 100] = .105 = .11 \text{ cfs}$$

2. The "Handbook of PVC Pipe" provides an estimate of the gravity diversion through the 4" line at P/D #1. Pages 224-225 from the handbook are attached. Basically, one determines the equivalent length of pipe to account for valve and pipe configuration loss, the available head, the head loss per 100' of pipe length, and the estimated flow from the nomograph on pg. 224. The calculations are shown below.

4" pipe,  $\approx 1100'$  long, head  $\approx 50'$  from taps  
 assume globe type valve open near pump station  
 assume 1 standard elbow per 100' of pipe

Equivalent length of pipe:  $\left\{ \begin{array}{l} \text{valve loss} = 120' \text{ (one-time occurrence)} \\ \text{elbow loss} = 11' / 100' \text{ of pipe} \\ \quad = (11/100)(1100) = 121' \\ \text{total loss} = 120 + 121 = 241' \end{array} \right\} \text{ See pg. 225}$

Available head: TOTAL hd = 50'; if assume 20 psi at spigot, head loss =  $(20)(2.31) = 46.2$   
 and  $50 - 46.2 = 3.8'$  available head.  
 if assume 10 psi at spigot, head loss =  $(10)(2.31) = 23.1$   
 and  $50 - 23.1 = 26.9'$  available head.

HEAD LOSS PER PIPE LENGTH

$$\frac{3.8'}{1341'} = \frac{.28'}{100'} \text{ of pipe OR } \frac{26.9'}{1341'} = \frac{2.01'}{100'} \text{ of pipe}$$

FLOW 42 gpm OR 130 gpm, allow greater value to give benefit of doubt.

See pg. 224

SOLUTION:  
 130 gpm = .2897 = .29 cfs

FEB 23 1996

Return flows at four pipes at the pool produced 27.1 gpm or .06 cfs from 5-gallon bucket measurements. However, this is water from spring #1 and is not added to total flow estimate since it's already accounted for in above calculations. The return flow would undoubtedly be much greater if measured during the winter when maximum diversions would occur for heating.

3. Pump station #2 utilizes co-mingled water and delivers it to five homes in NE part of P/U. A HP equation estimate for this station is shown.

unknown pump 2 hp, assume 20 psi, z = 5' per maint. sup. info

$$Q = [(8.8)(.7)(2)] / [(2.31)(20)+5] = .241 = .24 \text{ cfs}$$

Note that a return flow via a 2.5" pipe to creek just below pump location yielded 4 gal/6 sec. or 40 gpm or .09 cfs. Again, this might be higher in winter.

The flow for P/D #2 cannot be measured or reasonably estimated except to note that considerable flow was observed at the pool. Note that Proof of B.U. - *NOT FORM BUT APP FOR PERMIT BC*  
\* Attachment (A), item 8e indicates that spring #1 produces about 1/3 of the hot water collected at the pool and the other 2/3 comes from springs at the pool. From calculations 1 and 2 above, .40 cfs equals this 1/3. If so, the pool springs (P/D #2) should yield about .80 cfs, and the total flow from all springs would then be approximately 1.20 cfs, which is close to the permit amount of 1.29 cfs. It's conceivable that a license could be issued for 1.29 cfs based on calculations 1 and 2 and the statement that the estimated .40 cfs equals 1/3 of the total hot water flow. However, I am recommending the amount shown in calculations 1, 2, and 3 for lack of better data.

Admin. Memo 23 for heating shows that about 23 cfs could be used to heat the units found during the exam. The license recommendation is well within that large flow estimate. See the attached page for heating calculations.

#### Recommended Flows

1. **Domestic**- Water from P/D # 1 is used for lodge building and related out-buildings for bathrooms, baths, etc. but not for drinking or other culinary uses. Allow .05 cfs as shown on permit.
2. **Heating**- Water from both P/D's provides heating for 33 units (1 lodge, 1 shop, and 31 homes). Recommend .64 cfs as supported by calculations 1-3 above. Possibly, could recommend .89 cfs from permit as explained above. If so, adjust total cfs in right to either .89 or 1.29 cfs, depending on strength of assumptions used. No credit should be given for any stubbed lines to lots where homes are not found (differs with ground water approach).
3. **Recreation**- Both P/D's supply recreation water at pool. Allow .35 cfs limit as on permit.
4. **Total flow recommended by examiner is .64 cfs.**

FEB 23 1996

Volume Estimates

1. Domestic- As in permit 63-10559, assume maximum use at 180 days/year, 50 people/day, and 35 g/d/person (@ "tourist camp" from IDWR table).

Compare:  $(180 \times 50 \times 35) / 325850 = .97 \approx 1.0$  afa

$.05 \times 365 \times 1.9835 = 36.2$  afa, recommend 1.0 afa

2. Heating- if assume 180 days/year maximum and 12 hr/day heating at .64 cfs, then gallons/day =  $.64 \times 448.8 \times 60 \times 12 = 206807$ .

Compare:  $(180 \times 206807) / 325850 = 114.2$  afa

$.64 \times 365 \times 1.9835 = 463.3$  afa, recommend 114.2 afa

3. Recreation- if assume 180 days/year and 12 hr/day maximum at .35 cfs, then gallons/day =  $.35 \times 448.8 \times 60 \times 12 = 113097.6$ .

Compare:  $(113097.6 \times 180) / 325850 = 62.5$  afa

$.35 \times 365 \times 1.9835 = 253.4$  afa, recommend 62.5 afa

4. Total volume- 1.0

114.2

62.5

177.7 afa (which is less than volume capacity of .64 cfs system @ 365 days).

FEB 23 1996

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
BENEFICIAL USE FIELD REPORT

REVIEW WITH 63-10559  
**RECEIVED**  
JUL 30 1991

A. GENERAL INFORMATION

Department of Water Resources

1. Owner: Paradise Homeowners Assoc., Inc.  
Current Address: PC 87 Box 42 o/o Rocky Bar Stage  
2. Accompanied by: Elmer Maas  
Address: HC 87 Box 401 Mtn. Home, ID. 83647  
Relationship to Permit Holder: Maint. Supervisor  
3. Source: Springs tributary to Grouse Creek

Permit No. \_\_\_\_\_  
Phone No. 734-6054 or 543-6444 or  
Mtn Home, ID. 83647 653-2299  
EXAM. DATE: 11/16/89  
Phone No. 653-2299

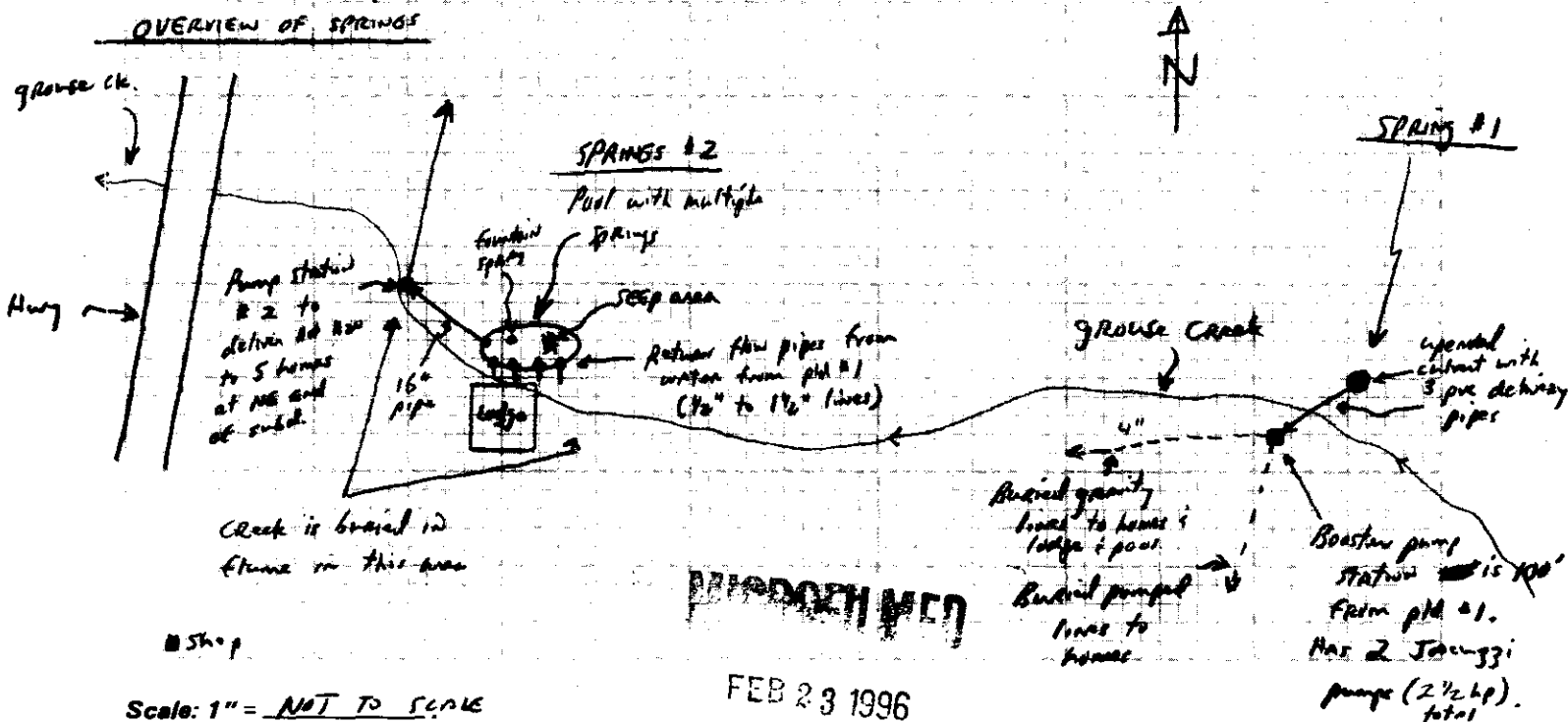
B. OVERLAP REVIEW

1. Other water rights with same place of use: 63-10559 -04221 -04046 -05268  
☐ Copies Attached <sup>N/A</sup>  
2. Other water rights with same point of diversion: 63-04221 -04046 -05268 -10559  
☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. Diversion System Diagram: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☒ Alternative diagram attached

SEE ORIGINAL DIAGRAM, MAPS, PHOTOS, SUBO. PLAT  
IN EXAM 63-10559



Scale: 1" = NOT TO SCALE

2. ☐ Copy of U.S.G.S. Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).  
☐ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater).  
☐ Aerial Photo Attached <sup>N/A</sup> (required for irrigation of 10 acres or more).

See  
63-10559

System Description (continued) MORE info in 4/30/91 memo

3. Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

2 springs were provide hot water to this system. At P10 #1, an expanded 24" diam. culvert collects water for 3 four-inch lines that runs 100' SW (it cross grouse ck.) to pump station #1. Two lines use booster pumps (2" lines) to provide heating water to homes south (uphill) of station. A 4" gravity line runs west to pool & provides heating water to homes along the way. P10 #2 is several springs in pool. Commingled water from P10 #1 & #2 can leave pool via headgate & 16" line & to pump station #2. Here, heating water can be pumped to 5 homes. Return flow from P10 #1 enters into pool via series of pipes. Return flow of commingled water enters grouse creek via 24" pipe just below pump station #2.

☐ See Remarks on page 4 for continuation

4.

| Well or Diversion Identification No.* | Motor Make    | Hp | Motor Serial No.                                                            | Pump Make | Pump Serial No. or Discharge Size |
|---------------------------------------|---------------|----|-----------------------------------------------------------------------------|-----------|-----------------------------------|
|                                       | N/A - gravity |    | diversions although booster pumps are found at pump stations away from pld. |           |                                   |
|                                       |               |    | more info in 4/30/91 memo                                                   |           |                                   |

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

5. Point(s) of Diversion:

| Ident. No. | Gov't. Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Method of Determination/Remarks           |
|------------|------------|-----|-----|-----|------|------|------|--------|-------------------------------------------|
| #1         | -          | SW  | SW  | NE  | 33   | 3N   | 10E  | Glenn  | USGS 7 1/2' quad - 1 spring at pld #1     |
| #2         | 04         | NE  | SE  | NW  | 33   | 3N   | 10E  | Glenn  | - multiple springs at pld #2 in pool area |

6. Place(s) of Use:

Indicate Method of Determination - USGS 7 1/2' quad

| Twp. | Rge. | Sec. | NE¼ |              |              |     | NW¼          |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | Totals |
|------|------|------|-----|--------------|--------------|-----|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|      |      |      | NE¼ | NW¼          | SW¼          | SE¼ | NE¼          | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 3N   | 10E  | 33   |     | 6            | 6            |     | 6            |     |     | 6   |     |     |     |     |     |     |     |     |        |
|      |      |      |     | <del>6</del> | <del>6</del> |     | <del>6</del> |     |     | D   |     |     |     |     |     |     |     |     |        |
|      |      |      |     |              |              |     | 6.1          |     |     | R   |     |     |     |     |     |     |     |     |        |
|      |      |      |     |              |              |     |              |     |     | 6.4 |     |     |     |     |     |     |     |     |        |
|      |      |      |     |              |              |     |              |     |     |     |     |     |     |     |     |     |     |     |        |
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|      |      |      |     |              |              |     |              |     |     |     |     |     |     |     |     |     |     |     |        |

Do not use this space

D. FLOW MEASUREMENTS

☒ Additional Data Sheets Attached

See 4/30/91 memo

1.

| Measurement Equipment | Type      | Make | Model No. | Serial No. | Size | Calib. Date |
|-----------------------|-----------|------|-----------|------------|------|-------------|
| 5 gallon bucket       | 15 gallon |      |           |            |      |             |
|                       |           |      |           |            |      |             |
|                       |           |      |           |            |      |             |
|                       |           |      |           |            |      |             |

2. Measurements:

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E. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

See 4/30/91 memo

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: \_\_\_\_\_ psi x 2.31 = \_\_\_\_\_ ft (1); Dynamic pumping level: \_\_\_\_\_ ft (2)

N/A Total Head: (1) + (2) = \_\_\_\_\_ (3); Flow rate: \_\_\_\_\_ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = \_\_\_\_\_ (5)

Meter Input KW: 3.6 x \_\_\_\_\_ KH x \_\_\_\_\_ CTR or \_\_\_\_\_ MULT x \_\_\_\_\_ PTR x \_\_\_\_\_ N/ \_\_\_\_\_ T = \_\_\_\_\_ (6)

Meter Input HP: (6) x 1.34 = \_\_\_\_\_ (7)

Panel Input KW: \_\_\_\_\_ Ave PF x \_\_\_\_\_ Ave Volts x \_\_\_\_\_ Ave Amps x .001732 = \_\_\_\_\_ (6)

Panel Input HP: (6) x 1.34 = \_\_\_\_\_ (7) Efficiency: (5)/(7) x 100 = \_\_\_\_\_ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation: N/A

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$  \_\_\_\_\_

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

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$  \_\_\_\_\_

2. Volume Calculations for Other Uses:

See 4/30/91 memo

MISSOURI MFD

FEB 23 1996

## H. REMARKS AND OVERLAP REVIEW ANALYSIS

press. device & ketchikan div. work condition: requested to be removed per 7/22/88 letter submitted with proof (letter mistakenly used 63-10559 instead of 63-10560). Not feasible to have in place.

Domestic & recreation use are at lodge, pool, & related facilities in Block 1 Lot 38. Heating is for 24 homes & 1 lodge in subdivision plus 7 homes & 1 shop bordering subd. (33 units total). Includes but is not limited to portions of Willis Creek's Paradise Subd.

Domestic is internal use only.

OVERLAP - 63-10559 wells for other uses in same property.

63-04221 grouse Cr. but also implies both hot springs pkgs as well.

63-10560 for some of same uses, same property. Will be resolved in SEBA process.

OTHERS are other water for other lands.

## I. RECOMMENDATIONS

### 1. Recommended Amounts

See 4/30/91 memo

| Beneficial Use | Period of Use |       | Rate of Diversion<br>Q (cfs) | Annual Volume<br>V (afa) |
|----------------|---------------|-------|------------------------------|--------------------------|
|                | From          | To    |                              |                          |
| Domestic       | 1/1           | 12/31 | .05                          | 1.0                      |
| Heating        | 1/1           | 12/31 | .64                          | 114.2                    |
| Recreation     | 1/1           | 12/31 | .35                          | 62.5                     |
| Totals:        |               |       | .64                          | 177.7                    |

### 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

## J. AUTHENTICATION

Field Examiner's Name

Steve Lester

Signature

Steve Lester

LW 5/7/91

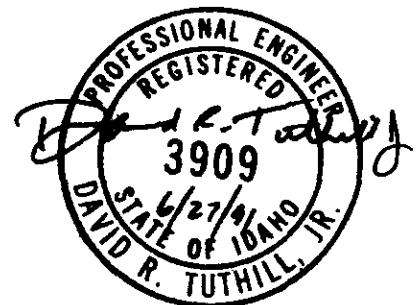
Certification Date

Field Report Preparation Date

4/30/91

CONSULTANT SEAL

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.



MISSOURI

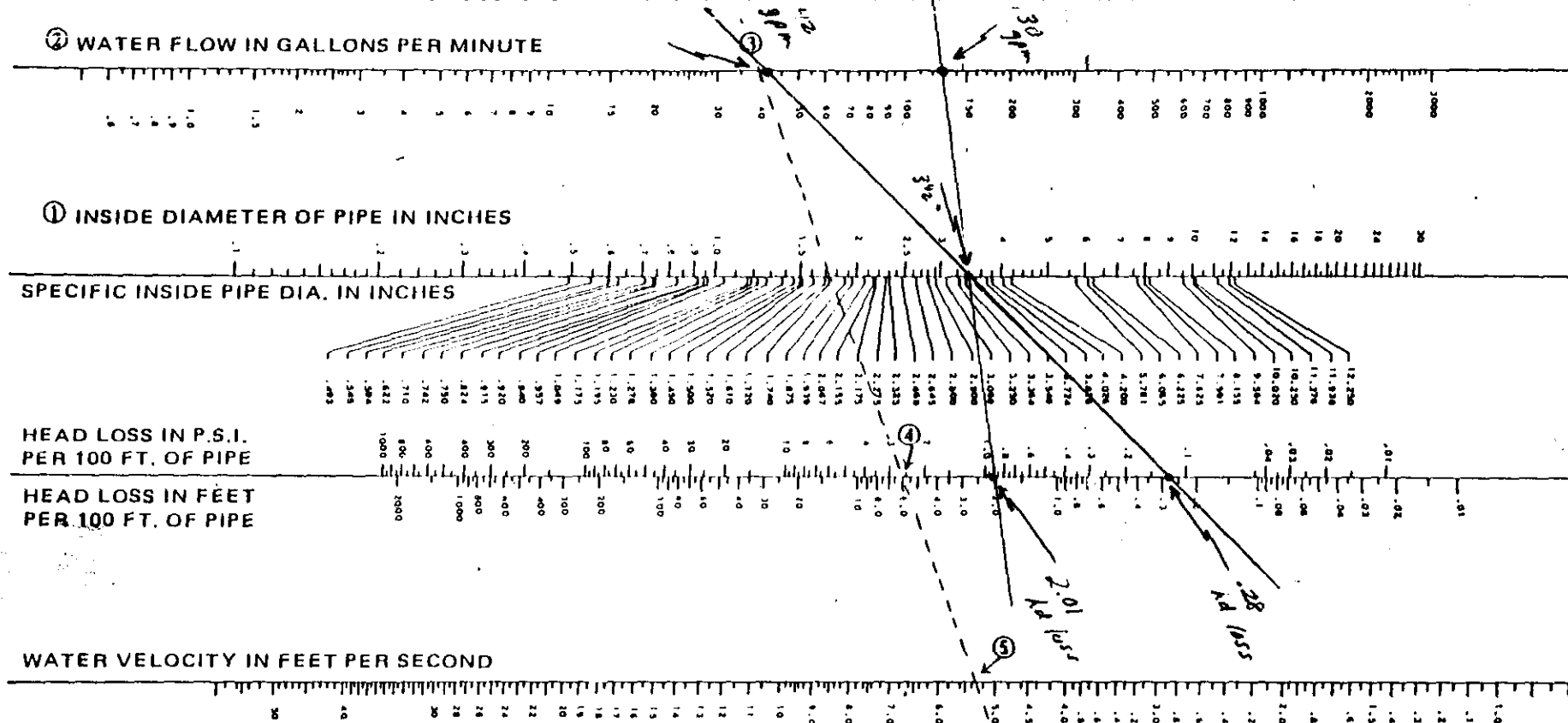
FEB 23 1996

FIGURE 36 - FRICTION LOSS CHARACTERISTICS OF WATER FLOW THROUGH PVC PIPE

Assume  
I.D. = 3 1/2"

224

63-10560



# HOW TO USE THIS GRAPH:

1. Select the desired pipe size (inside diameter).
2. Determine the amount of water to flow through the pipe.
3. Place a straight-edge on these two points.
4. The point at which the straight-edge intersects the head loss line and the velocity line give these two values under the given conditions.
5. This graph should be used for approximate values only.

## EXAMPLE:

1 1/2" schedule A pipe (I.D. = 1.740") ①  
40 gallon per minute service ②

1. Line up these points with a straight-edge ③
2. Read 2.6 psi (or 6 ft.) from the head-loss line ④
3. Read 5.38 ft. per second from the velocity line ⑤

THE VALUES ON THIS GRAPH ARE BASED ON THE WILLIAMS AND HAZEN FORMULA:

$$(EQUATION 83) \quad f = .2083 \left( \frac{100}{C} \right)^{1.33} \times \frac{Q^{1.852}}{d^{4.971}}$$

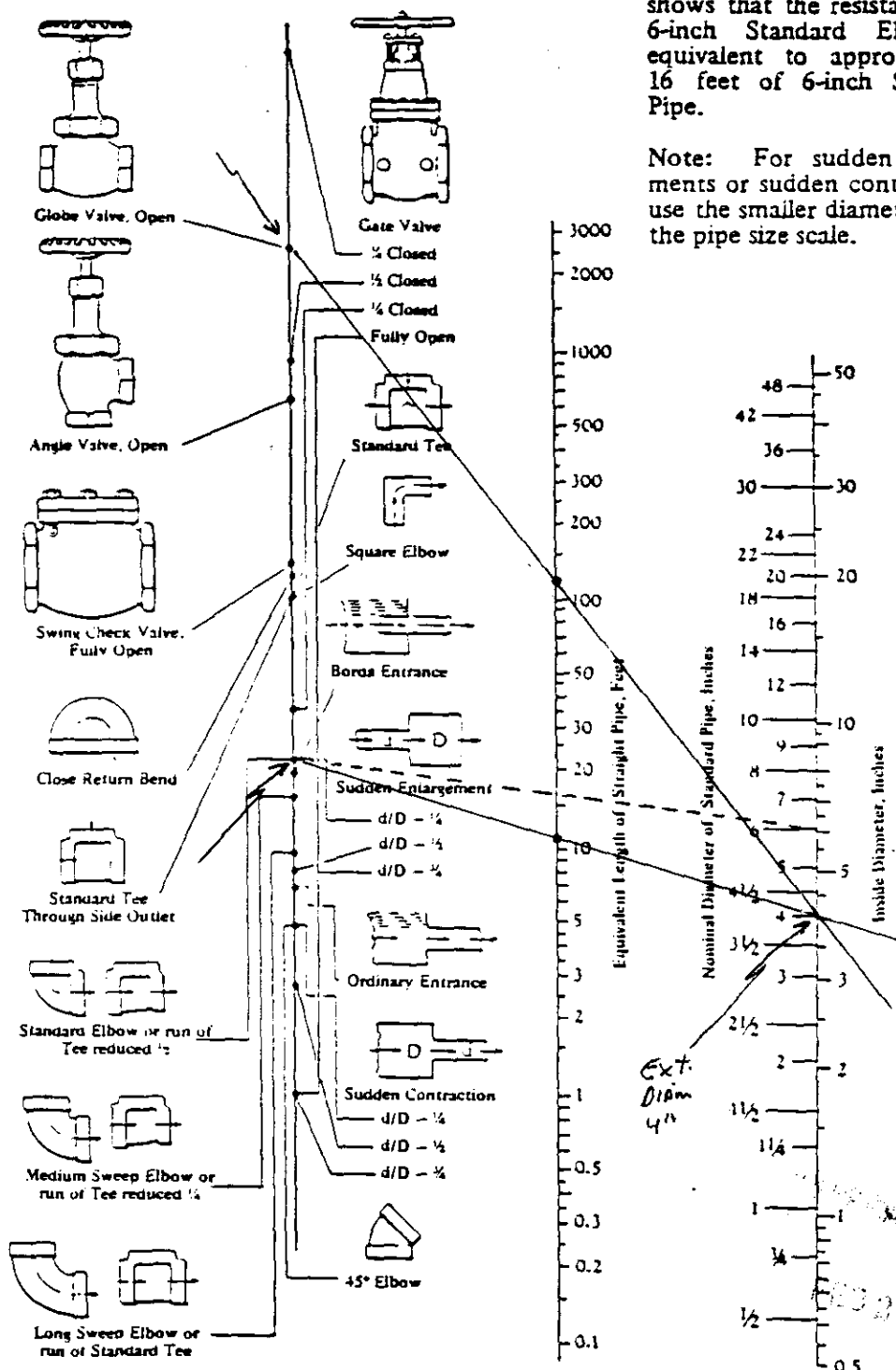
WHERE:

- f = friction head in feet of water per 100 feet of pipe
- d = inside diameter of pipe in inches
- Q = Flow in gallons per minute
- C = Constant for inside roughness of pipe (150 for PVC)

FIGURE 37 - RESISTANCE OF VALVES AND FITTINGS TO FLOW OF FLUIDS

Note: Head loss through check valves varies with types manufactured.  
Consult manufacturer for correct values.

63.10560



Example: The dotted line shows that the resistance of a 6-inch Standard Elbow is equivalent to approximately 16 feet of 6-inch Standard Pipe.

Note: For sudden enlargements or sudden contractions, use the smaller diameter,  $d$ , on the pipe size scale.

From P10 #1, 4" O.D. gravity pipe

Assume 1 globe valve, open → 120' eq. for 1 time valve loss  
Assume 1 std. elbow per 100' pipe → 11' loss per 100' of pipe for elbows

63-10560

HEATING PER ADMIN MEMO 23

S = 128° MEASURED at P/D 1 &amp; P/D 2

 $t_i = 70^\circ$  $t_o = -8^\circ$  (≈ Pocuttell)

$$\Delta T = 70 - (-8) = 78$$

e = average = 52.6 (interpolate chart between 70° & 80° for  $\Delta T$ )

A: ① 1-story shop 1000 ✓

② 2-story lodge 6000 ✓

③ 2-story homes @ 1500 per = 30000 ✓

④ 1-story homes @ 1200 per = 13200 ✓

} use .8 factor for 2-story

$$E = (52.6)(78) \left[ (1000) + (.8)(6000) + (.8)(30000) + (13200) \right]$$

$$= (4102.8)(43000) = 176,420,400$$

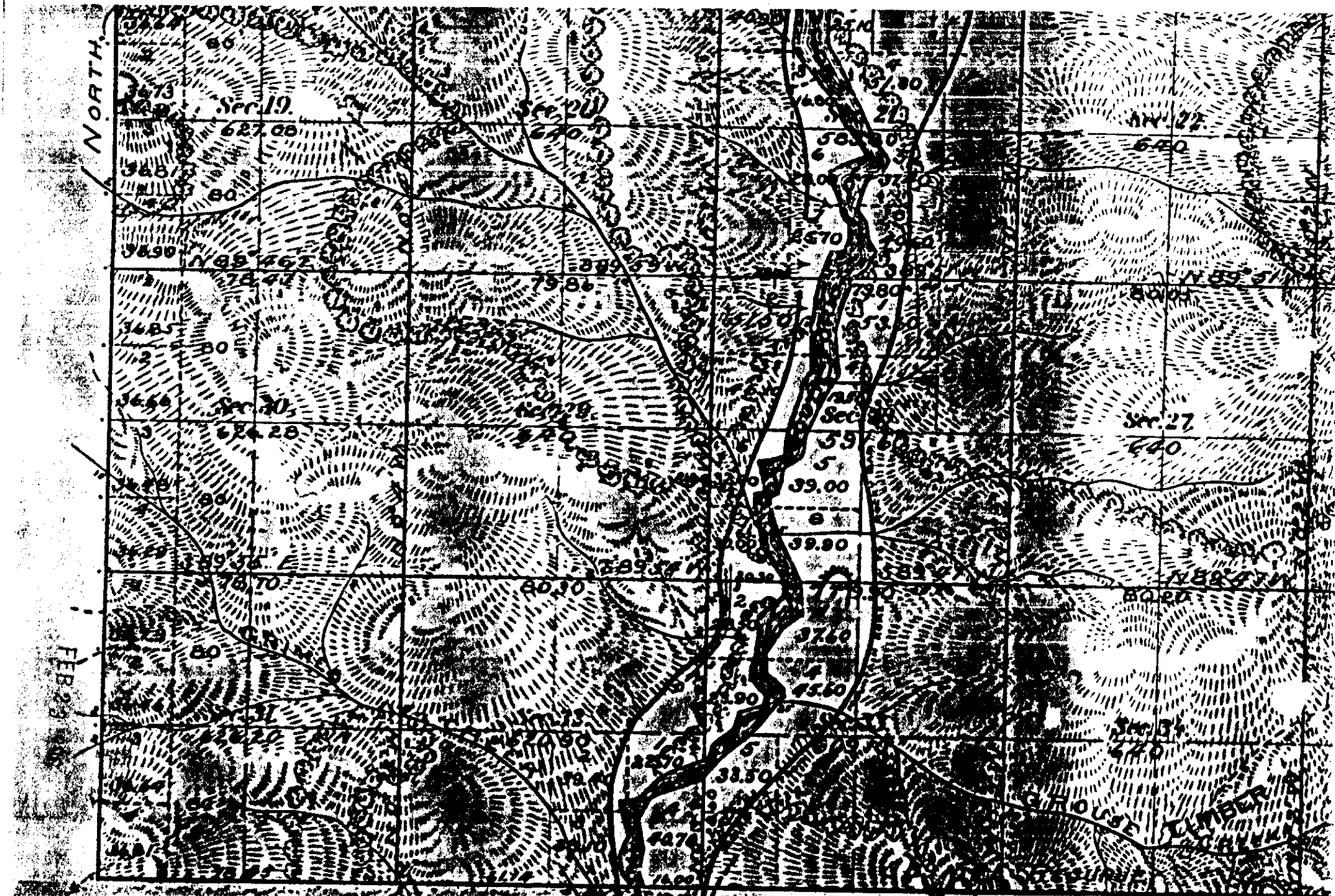
$$\Delta T_s = (.6)(S - t)$$

$$= (.6)(128 - 70) = 34.8$$

$$W = \frac{Q}{(500)(\Delta T_s)} = \frac{176,420,400}{(500)(34.8)} = 10139.1 \text{ gpm} = \underline{22.59 \text{ cfs}}$$

This info supports the .64 cfs for heating shown on  
pg. 2 of 4/30/91 memo.

FEB 28 1996



Area of Watersurface 315.9 Acr. of Public Land 22634.94 Total number of Acres 22950.84

| Survey Designated | By Whom Surveyed  | Date of Contract | Amount of Survey | When Surveyed | Explanation |
|-------------------|-------------------|------------------|------------------|---------------|-------------|
|                   | William Allen and |                  |                  |               |             |

T3N

P1D  
3 wells  
63-10559

MAAS  
HOME

P1D  
Spring #2

NE of Lodge (P1D-P1D)  
Price

Storage tank for wells  
P1D Spring #1 is 40'  
from creek

P1D Boundary

Stop  
Lodge  
Grange  
Creek  
Road

Pine-Fentonville Hwy

5 HOMES NE of Spring #2  
and on East side of Hwy

do not receive well water.

Exclude NWNE  
from P1D 63-10559

R106

FEB 23 1936

Wells  
Gulch

Spring =

63-10559

63-10560

Dare

Price  
E7024

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

DEPT. OF WATER RESOURCES  
JUL 22 1988  
Department of Water Resources  
Western Regional Office

July 22, 1988

Attention: Gary Spackman - Supervisor, Water Allocation Section

RE: Permit No. 63-10559 - "Proof of Beneficial Use"

Dear Mr. Spackman:

We are in receipt of your letter dated March 11, 1988 concerning Permit No. 63-10559 and the requirement for filing a "Statement of Beneficial Use."

Enclosed please find our check in the amount of \$125.00 and our statement of "Proof of Beneficial Use."

If possible; the best days of the field inspection would be a Friday or Saturday.

Page four of the Approval Application For Permit calls for a measuring device and a lockable controlling works of an acceptable nature to be permanently installed. We request relief from this requirement due to the nature of our particular use of this natural warm water spring.

Due to the small water volume involved and the method of collection of the water from this natural and continually flowing warm water spring; a measuring device would be very costly for any benefit derived. We request relief from this requirement. We would like you to allow your field representative to evaluate our unusual circumstance and to assist in evaluating if the end result desired is justified by the requirement of a measuring device in this instance.

Thank you in advance for your assistance with this matter.

Best regards,

*Harold L. Johnson*  
Harold L. Johnson  
for Paradise Homeowners  
Association, Inc.

RECEIVED

JUL 21 1988

Department of Water Resources

SEP 30 1988

S T E I D A H O  
DEPARTMENT OF WATER RESOURCES

- - - - -

STATEHOUSE  
BOISE, IDAHO 83720  
(208) 334-4440  
MARCH 11, 1988

PARADISE HOMEOWNERS ASSN. INC.  
C/O ROCKY BAR STAGE  
HC 87 BOX 42  
MOUNTAIN HOME, ID 83647

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 63-10560

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION -OR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL A MEASURING DEVICE AND LOCKABLE CONTROLLING WORKS THAT WILL ENABLE THE WATERMASTER TO CONTROL YOUR RATE OF DIVERSION.

WE HAVE ENCLOSED 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 FOR YOUR CONVENIENCE IS THE STATEMENT OF BENEFICIAL USE FORM THAT MUST BE SUBMITTED WHEN YOUR PROJECT IS COMPLETED.

SINCERELY,

GARY SPACKMAN  
SUPERVISOR, WATER ALLOCATION SECTION

GS: SC  
ENCLOSURES

SEP 30 1988

FROM

Jan Thunke

DATE

2/10/88

TO

Dave Rithill *DR*

SUBJECT

Justification of flow rates

I spoke with Mr. Harold Johnson, Pres. Paradise Homeowners Assoc. & he said he worked with Southern Region for his figures. They were: 50 home sites at .01 cfs each = 0.50 cfs, Lodge/kitchen etc - .05 cfs, Shop - .01 cfs, 2 dressing rooms - .01 cfs each for .02 cfs, 11 motel like rms separate from lodge - .01 cfs each for 0.11 cfs and 20 cottages at .01 cfs each for 0.20 cfs for a grand total of .89 cfs. Then, for the recreation use - swimming pool & hot tubs he calculated the flow in a

SIGNATURE

4" pipe w/approx. 5" head at 150 gpm in  
0.40 cfs. However, he said there are some  
elbows + reducers in the pipeline, so they  
deducted .04 cfs (estimate), + came up  
with 0.36 cfs. Their water temp. is  $141^{\circ}$ .  
Is this sufficient for justification? If  
not, let me know.

Jan

**NOTICE OF APPLICATIONS  
FOR WATER RIGHTS**

The following applications have been  
filed to appropriate the public waters of  
the State of Idaho:

63-10559

PARADISE HOMEOWNERS ASSN.  
INC.

C/O ROCKY BAR STAGE, HC87  
BOX 42, MOUNTAIN HOME, ID 83647

Source: GROUNDWATER  
Diversion Pt: LOT 04 (NWSNW) Sec  
33 T 03N R 10E

Use: DOMESTIC (0.060 CFS); COM-  
MERCIAL (0.060 CFS)

Date Filed: 11/18/1987

In: NWNE SWNE LOT 01 (NENW)  
LOT 04 (SENW) Sec 33 T 03N R 10E

63-10560 ✓ 48

PARADISE HOMEOWNERS ASSN.  
INC.

C/O ROCKY BAR STAGE, HC 87  
BOX 42, MOUNTAIN HOME, ID 83647

Source: SPRING trib. to GROUSE  
CREEK

Diversion Pt: NWSWNE Sec 33 T 03N  
R 10E

Use: RECREATION (0.350 CFS);  
DOMESTIC (0.050 CFS); HEATING  
(0.890 CFS)

Date Filed: 11/18/1987

In: LOT 01 (NENW) LOT 04 (SENW)  
NWNE SWNE LOT 04 (SENW) Sec 33 T  
03N R 10E

The permits 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 Jan. 25, 1988.

R. KEITH HIGGINSON, Dir.  
Published 01/06 & 01/13/88.

**RECEIVED**  
JAN 30 1988

Department of Water Resources  
Western Regional Office

**Affidavit of Publication**

County of Elmore }  
STATE OF IDAHO } ss.

I, Mike Thornberry, do  
solemnly swear that I am the foreman, or  
publisher of the

**MOUNTAIN HOME NEWS**

a weekly newspaper of general circulation,  
published once a week at MOUNTAIN HOME,  
IDAHO, that the notice attached hereto and  
which is a part of the proof of publication  
thereof, was published in said newspaper for

... 2 ... consecutive weeks, the first publica-

tion having been made on the 6 ... day

of January ..., 1988, and

the last publication having been made on the

... 13 ... day of January ...

19 88 ...; every Wednesday issue of the paper

during the period and time of publication and  
that the notice was published in the newspaper  
proper and not in a supplement thereof.

And I further swear that the said MOUN-  
TAIN HOME NEWS has been continuously and  
uninterruptedly published in said Elmore County  
during a period of 78 consecutive weeks prior  
to the first publication of the attached notice.

Mike Thornberry  
Subscribed and sworn to me this 18th ...

day of January ..., 1988

Dean W. Swen  
Notary Public

**RECEIVED**

SEP 30 1988

63-10560

PARADISE HOMEOWNERS ASSN. INC.

C/O ROCKY BAR STAGE, HC 87 BOX 42, MOUNTAIN HOME, ID 83647

Source: SPRING trib. to GROUSE CREEK

Diversion Pt: NWSWNE Sec 33 T 03N R 10E

|                 |             |
|-----------------|-------------|
| Use: RECREATION | (0.350 CFS) |
| DOMESTIC        | (0.050 CFS) |
| HEATING         | (0.890 CFS) |

Date Filed: 11/18/1987

In: LOT 01 (NENW) LOT 04 (SENE) N4NE SWNE LOT 04 (SENE) Sec 33 T 03N R 10E

**RECORDED**

SEP 30 1988

## CONVERSATION MEMORANDUM

DATE 12/11/87FILE App's for Paradise  
Homeowners, Assoc.,  
Inc.

NAME OF PARTY

Harold Johnson

EMPLOYEE

Jan Thuto

RE:

Changes per my letter dated 12/9/87

Mr. Johnson phoned to state that ~~the~~ Govt Lot 1 (NENW), sec. 33 should be included. He said that based on the topographic map there is domestic & commercial use in that Lot from the well, and domestic & space heating from the spring. However, he said there is no recreational use from the spring in Lot 1. I am changing the applications to reflect this per my phone conversation with Mr. Johnson.

SEP 30 1988



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
Western Region

CECIL D. ANDRUS  
Governor

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

R. KETH HEGGSON  
Director

December 9, 1987

Paradise Homeowners Assoc., Inc.  
Harold L. Johnson  
P.O. Box 701  
Filer, ID 83328

*Domestic  
& Comm. well*

*No spring*

Dear Mr. Johnson:

We have received the applications for permit for a spring and well used in the Paradise Inn area. However, before these applications can be processed more information is needed.

The applications have been completed properly, the only question is with the place of use. In looking at the subdivision plats submitted it appears that the area encompasses the NW1/4NE1/4, SW1/4NE1/4, Govt. Lot 4(SE1/4NW1/4), and Govt. Lot 1(NE1/4NW1/4), Sec. 33, Twp. 3N, Rge. 10E. However, the place of use under Item No. 9 shows all of these quarter-quarters except for Govt. Lot 1(NE1/4NW1/4). In order to avoid confusion later and possible amendments, it would be to your advantage to check the place of use to insure that this quarter-quarter should not be included. The subdivision plat shows it as a part of the subdivision area, however, if this area is not served with water then it is correct in leaving it off the application. Enclosed is a copy of the Government Lot plat for this area which will show where the govt. lots lie. Also enclosed is a copy of the topographic map for this area to aid you in locating the exact place of use for this water.

Please contact us as soon as possible concerning whether Govt. Lot 1(NE1/4NW1/4), Sec. 33 should be included. If we do not hear from you within two week, we will proceed to advertise the applications and processing will continue with the quarter-quarters shown. Feel free to contact us if you have any questions.

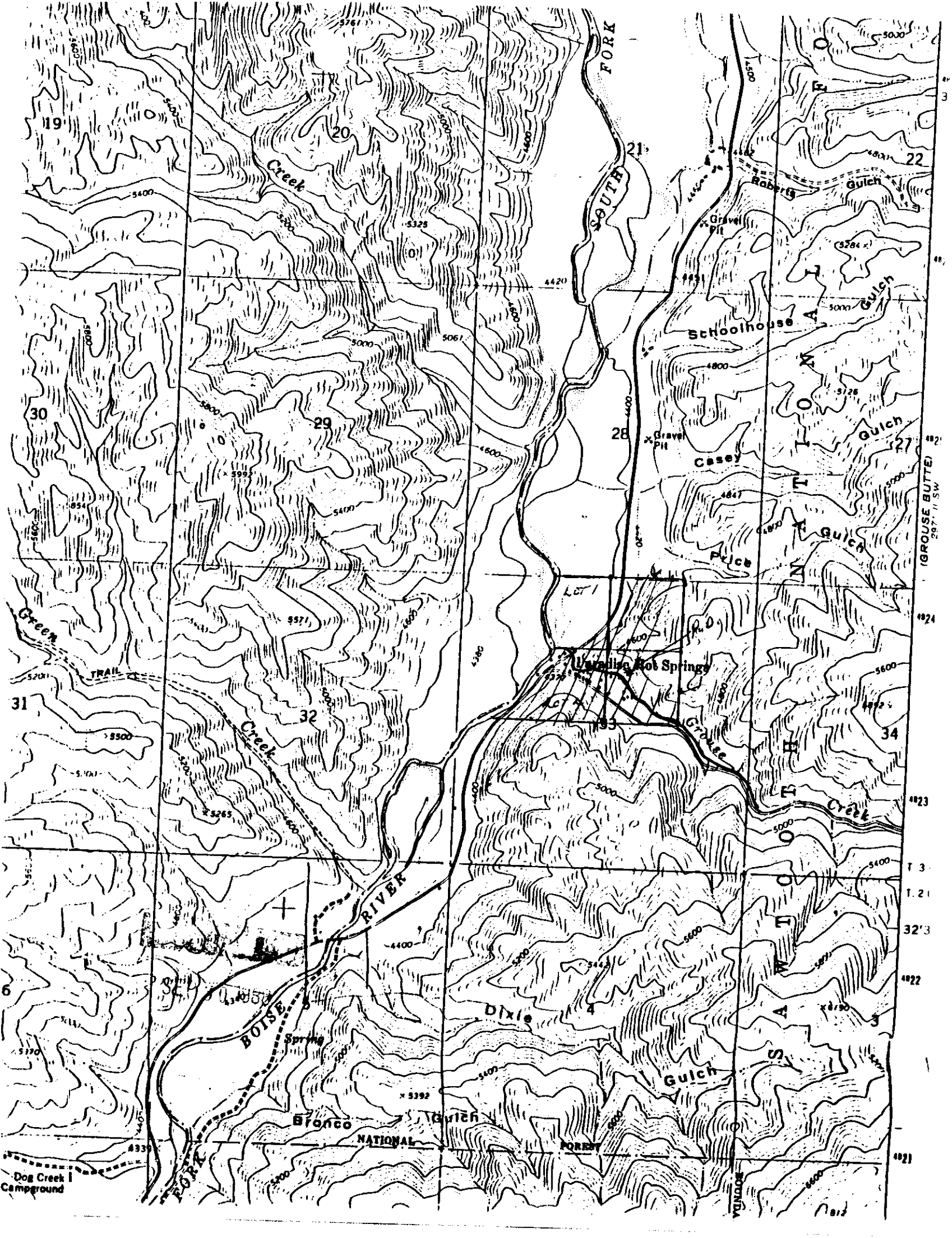
Sincerely,

JAN SHURTE  
Sr. Water Resource Agent



SEP 30 1988

JS:j





Claim No. 63-4221

**Section 42-225a, Idaho Code**

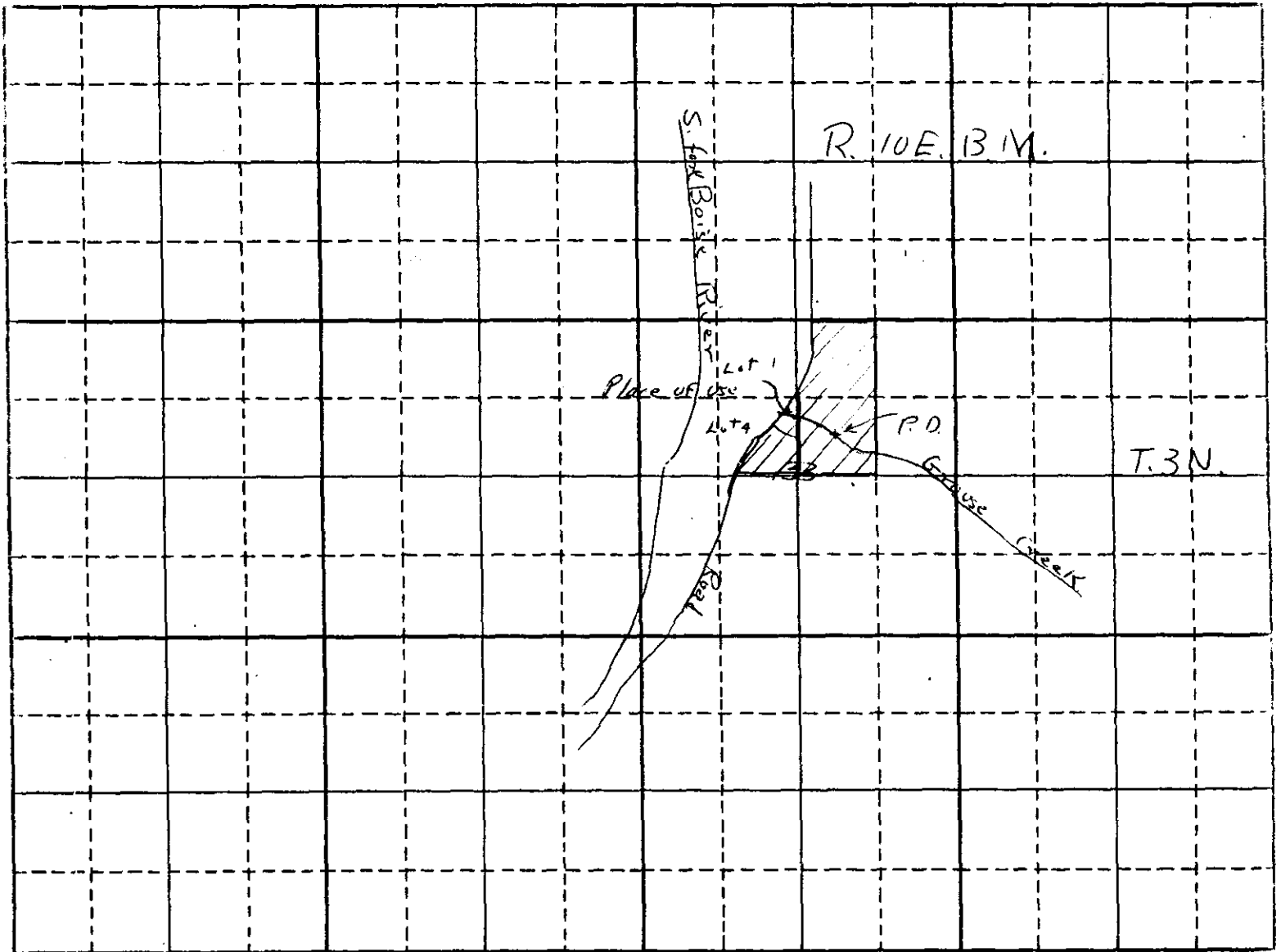
Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

ground water or surface water tributary to South Fork Boise River

(7) If you are claiming water as a member of an organization, list name of organization: 63-4211

Swimming pool developed in 1918, used from Jan. 1 to Dec. 31, 1½ acre feet capacity. Pool is located in Lot 2/3 Hot water rises in bottom of pool for swimming which is cooled by water from Grouse Creek. 1/3 Hot water rise adjacent to point of diversion and is used for heating all buildings on the Paradise property including domestic and hot mineral baths. All hot water would equal approximately 2000 gallons per hour and is all in use on the Paradise property.

63-4221



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of Ada

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 11<sup>th</sup> day of June, 1973

Shellis, Connie  
(Claimant)

Notary Public  
Residing at Boise, Idaho

My commission expires 14 July 1974

For Department Use Only

Received by R.W. H. Date 6-11-73  
Prelim. check by R.W. H. Date 6-11-73  
\$10.00 fee received by ej Date 6-11-73

Exception filed by:

Forwarded to claimant by SEP 30 1988

Approved for publication by Mr. Hank W. W.  
Published in 6-21, 6-28, 1973

REPORT

SEP 18 1997

ON

RECEIVED

SEP 18 1997

Department of Water Resources

GEOHERMAL WATER RESOURCES

FOR

PARADISE SUBDIVISION

LOCATED

IN

PINE IDAHO

*Prepared by:*

**McClure Engineering**

MICROFILMED

JAN 12 1958

## INTRODUCTION

The Paradise Subdivision located near Pine Idaho currently utilizes geothermal hot water from springs located within the subdivision area for heating of cabins and other facilities in the subdivision area. The Home Owners Associates wishes to further develop this existing resource. Pursuant to this, they contacted McClure Engineering to assist them in planning the development of the geothermal resource.

The purpose of this report is to present findings regarding quantities of water available at the site, as determined by on site measurement, to correlate those on site measurements with existing and/or pending permit applications, and finally to present items for consideration prior to going into the design phase of the project.

## FINDINGS

On August 26, 1997, flow measurements were taken on the two geothermal sites available on this subdivision property. Measurements were taken by Mr. Jeff Martins, Steel Head Engineering, utilizing an ultrasonic flow meter field measurement devices of a type acceptable to the Idaho Department of Water Resources. Coordinating the flow measurement task were Mr. Erin Bartschi, McClure Engineering and Gordon Hendrix, McClure Engineering. Observing the flow measurement activities for the Home Owners Association were Mr. Mark Johnson and Mr. Jim Paulson.

The results of the flow measurements were as follows:

| Source       | Flow    |
|--------------|---------|
| Upper Spring | 114 gpm |
| Lower Spring | 316 gpm |
| Total        | 430 gpm |

## INVESTIGATION

The Paradise Homeowners Organization currently has four water right permits in various stages of approval. One license, dated November 18, 1987, authorizes the utilization of .64 cfs (287.25 gpm) by the Homeowners Association. This water right allows utilization of the water for heating, domestic and recreational uses. Two permits have been issued on which final licensing is pending. One permit,

dated June 26, 1995, authorizes the diversion of 0.14 cfs (63 gallons per minute) for irrigation and domestic use. A second permit, dated June 26, 1995, authorizes utilization of .08 cfs (35.9 gpm) for the purpose of a geothermal heating. Finally, an application dated February 6, 1996, has been made for an allocation of 0.10 cfs (44.883 gpm) for use as stock water and/or domestic water source. Thus the total quantity of water applied for and/or approved equals 430.87 gallons per minute. It follows that the quantity of water measured as being available on the site (430 gpm) and the quantity of water for which permitting has been applied for are virtually identical. As noted, approved uses for the domestic hot water source include heating, domestic use, recreation, irrigation, and stock watering.

Approximate layouts of the spring water collection systems are attached in enclosure 1. These piping arrangements are based upon limited observation of site conditions combined with a description of piping configuration provide by Guenter de Vincent.

#### DISCUSSION

My discussion with the members of the Home Owners Association established that design criteria for the new system shall include the supply of five gallons per minute of geothermal hot water to each of 66 lots. This portion of water allocation would require 330 gallons per minute. Heat load calculation were performed on the existing lodge to determine the volume of geothermal water necessary to provide adequate heating for this facility. Those calculation establish that 33 gallons per minute of geothermal water would be necessary. Assuming that the remaining quantities of water available from the geothermal resource are to be diverted to the pool, that leaves approximately 67 gallons per minute for all other uses including heating of the swimming pool area.

Preliminary investigation as to whether the 5 gallon per minute per cabin will be sufficient for heating indicates that this quantity of water should be sufficient to maintain the cabins above freezing. However it is also anticipated that supplemental heat will be required at times to achieve a comfortable environment within the cabins when outdoor air temperatures are extremely low. The extent to which supplemental heat is required with, of course, depend on the efficiency of the heating system installed in each cabin and the size and thermal efficiency of each cabin.

With regard to system design, several items appear worthy of note:

First, in order to provide heat for all lots anticipated for the subdivision, it will be necessary to utilize the flow from both the upper and lower geothermal springs to maintain adequate water flows. Also, because of the temperature of the water, special consideration should be given to the selection of pumps used for

the system to ensure that they are designed to operate at the elevated water temperatures provided by the geothermal water.

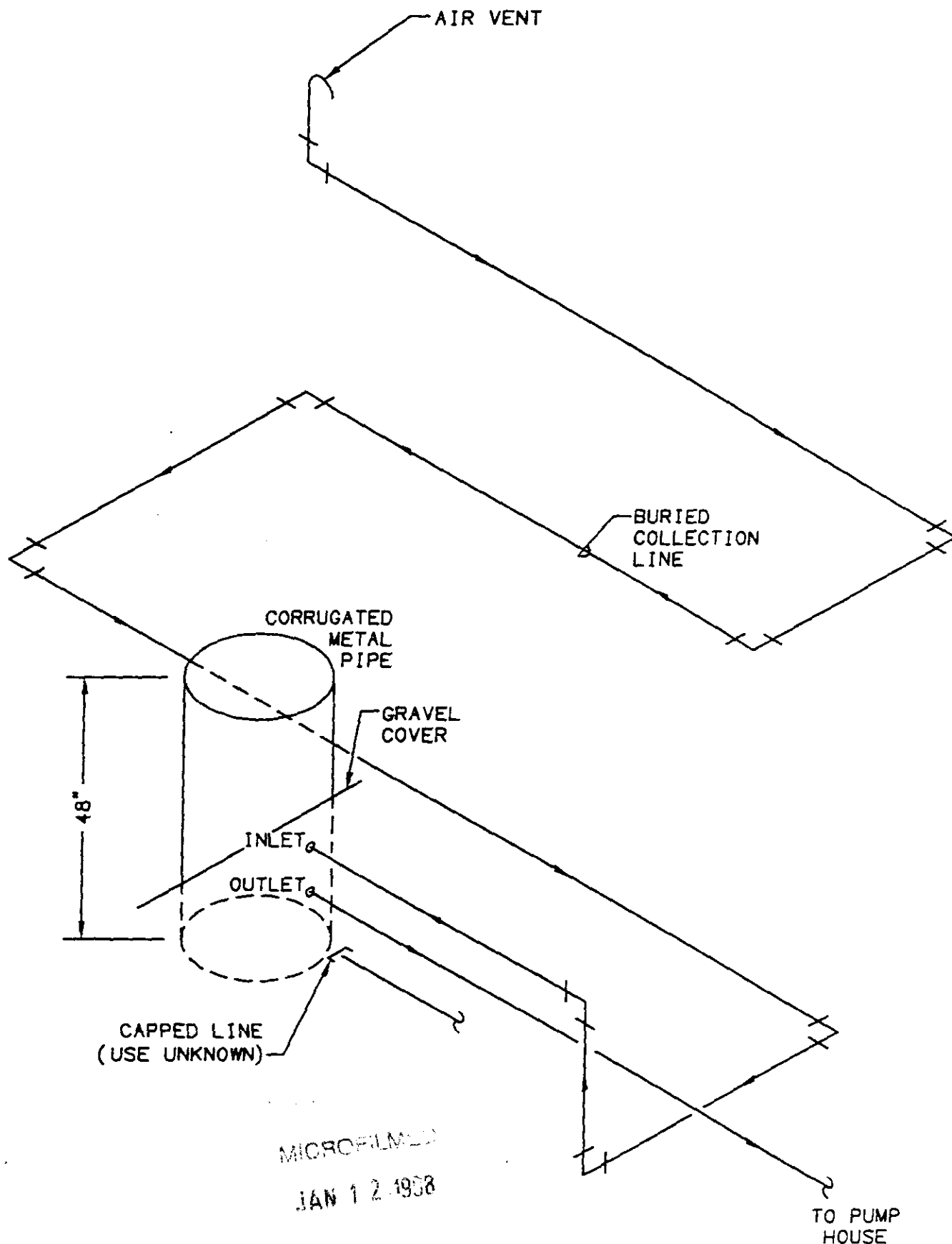
With regard to providing flow to the cabins, it appears advisable to have each of the cabins supplied with geothermal water through a flow limiting device which will maintain a constant 5 gpm flow regardless of differential pressure unless flow is shut off on the discharge side of the valve as would be the case with a two position valve within the cabin. This arrangement would assure that all cabins would receive the correct amount of water regardless of outside conditions.

The second item to note is that the listing for this water is as a heating and domestic source and not as potable water source. It is my understanding that this water is suitable for drinking if it is properly treated. However, as delivered it is my understanding that it is not advisable to utilize this water as a potable or drinking water source. Therefore anticipated domestic water use would be restricted to utilization in shower and/or hot tub facilities. Waters diverted from the system for this purpose would have to be disposed of through the site sewer system and not through the heating water return system.

To prevent contamination of the water resource, it is required that any such connections accomplished inside the cabins be installed in compliance with Article 603.3.5 of the Uniform Plumbing Code. Further, it may be advisable to install a backflow preventor device at the take off for each cabin to insure that contaminated water is not pulled back into the central distribution system.

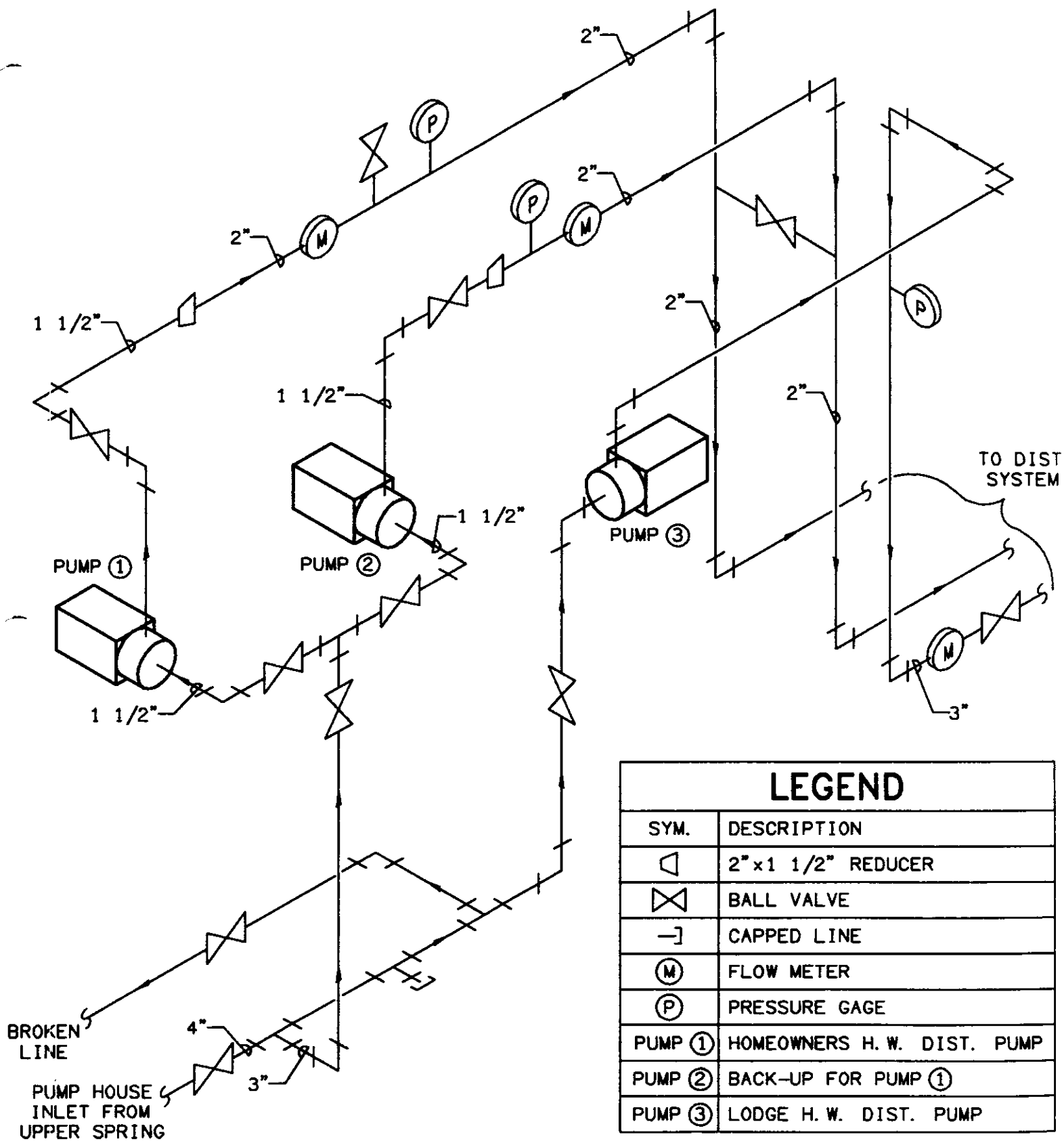
### CONCLUSION

The Paradise Homeowners Association has permit application either approved or in process for the entire flow measured as being available from two geothermal springs available on the subdivision site. Existing distribution systems utilize a small portion of existing resources for geothermal heating of existing cabins. Modification or replacement of the existing system will be necessary to insure that the resource is utilized in a manner which is both efficient and equitable to all lot owners within the subdivision. Further, development of the resource should progress in a manner which allows proper utilization of the resource while preventing possible contamination which may occur if improper piping systems are allowed to be installed.



# HOT WATER COLLECTION SYSTEM AT UPPER SPRING

NTS  
MEASURED FLOW - 114 GPM



MICROFILMED

JAN 12 1988

CORRUGATED  
METAL  
PIPE

PIPE INLET

BUBBLER  
INSIDE  
POOL

BUBBLER  
INSIDE  
POOL

4"

POOL  
RECIRC.  
LINE

6" BUTTERFLY VALVE  
DISCHARGE TO  
GROUSE CREEK

DIST. SYSTEM  
TO CABINS

PUMP

# HOT WATER COLLECTION SYSTEM AT LOWER SPRING

NTS  
MEASURED FLOW - 316 GPM

MICROFILMED  
JAN 12 1938