

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5557
WATER RIGHT NO. 29-08173

This is to certify that: **HERITAGE DEVELOPMENT**
C/O MIKE BIRD
609 W MAPLE
POCATELLO ID 83201

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.27 CFS	21.0 AF

SOURCE

GROUNDWATER

Priority: 07/19/1996

LOCATION OF POINT(S) OF DIVERSION:

SENE , Sec. 31, Township 05S, Range 34E
BANNOCK County

PLACE OF USE: DOMESTIC

TWN RGE SEC

05S 34E 31

NENE

SENE

CONDITIONS OF APPROVAL AND REMARKS

1. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.
2. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

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MAR 17 2000

TRANSFER NO. 5557
WATER RIGHT NO. 29-08173

CONDITIONS OF APPROVAL AND REMARKS

5. Points of diversion are located within Lot 4, Blk. 1, Equestrian Estates.
6. Places of use are located within Lots 1-3 and 5-16, Blk. 1; Lots 1-8, Blk. 2; and Lots 1-16, Blk. 3; Equestrian Estates.
7. Domestic use is for 35 homes and does not include lawn, garden, landscape, or other types of irrigation.
8. Two points of diversion are located within SENE, S31, T05S, R34E.

Dated this 6th day of

March, 2000

J. Glen Saxton

Chief, Water Allocation Bureau

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MAR 17 2000

RECEIVED APPLICATION FOR TRANSFER OF WATER RIGHT

NOV 26 1999

PART 1

Department of Water Resources
Name of applicant Heritage Development
c/o Mike Bird208
Phone 234-1820Post Office address 609 W Maple, Pocatello Id 83201

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Correct P/L Licensing error

2. Describe the reason for the proposed changes DEO requires a second back up well for
Subdivision (Equestrian Estates)

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>29-08173</u>	<u>07/19/1996</u>	<u>0.27 cfs</u>	<u>Domestic</u>	<u>1/1</u> to <u>12/31</u>
				to
				to
				to

2. Total amount of water being transferred 0.27 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water GROUNDWATER tributary to _____

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NE	31	5S	34E	Bannock	Well #1 & #2

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5S	34E	31	D			D													

RECEIVED

SEP 01 1999

Department of Water Resources
Eastern RegionMICROFILMED
MAR 17 2008

Total acres _____

PART 1

6. General Information:

a. Description of diversion system Two wells to pressure tanks to single domestic homes (39 units)

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes ☒ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

d. Remarks:

DEQ is requiring a second well as backup.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

MICROFILMED
MAR 17 2000

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 29-08173

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.27 CFS	21.0 AF

SOURCE

GROUNDWATER

Priority: 07/19/1996

LOCATION OF POINT(S) OF DIVERSION:SENE , Sec. 31, Township 05S, Range 34E
BANNOCK CountyPLACE OF USE: DOMESTICTWN RGE SEC05S 31E 31

NENE

SENE

CONDITIONS/REMARKS:

1. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.
2. Point of diversion is located within Lot 4, Blk. 1, Equestrian Estates.
3. Places of use are located within Lots 1-3 and 5-16, Blk. 1; Lots 1-8, Blk. 2; and Lots 1-16, Blk. 3; Equestrian Estates.
4. Domestic use is for 35 homes and does not include lawn, garden, landscape, or other types of irrigation.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

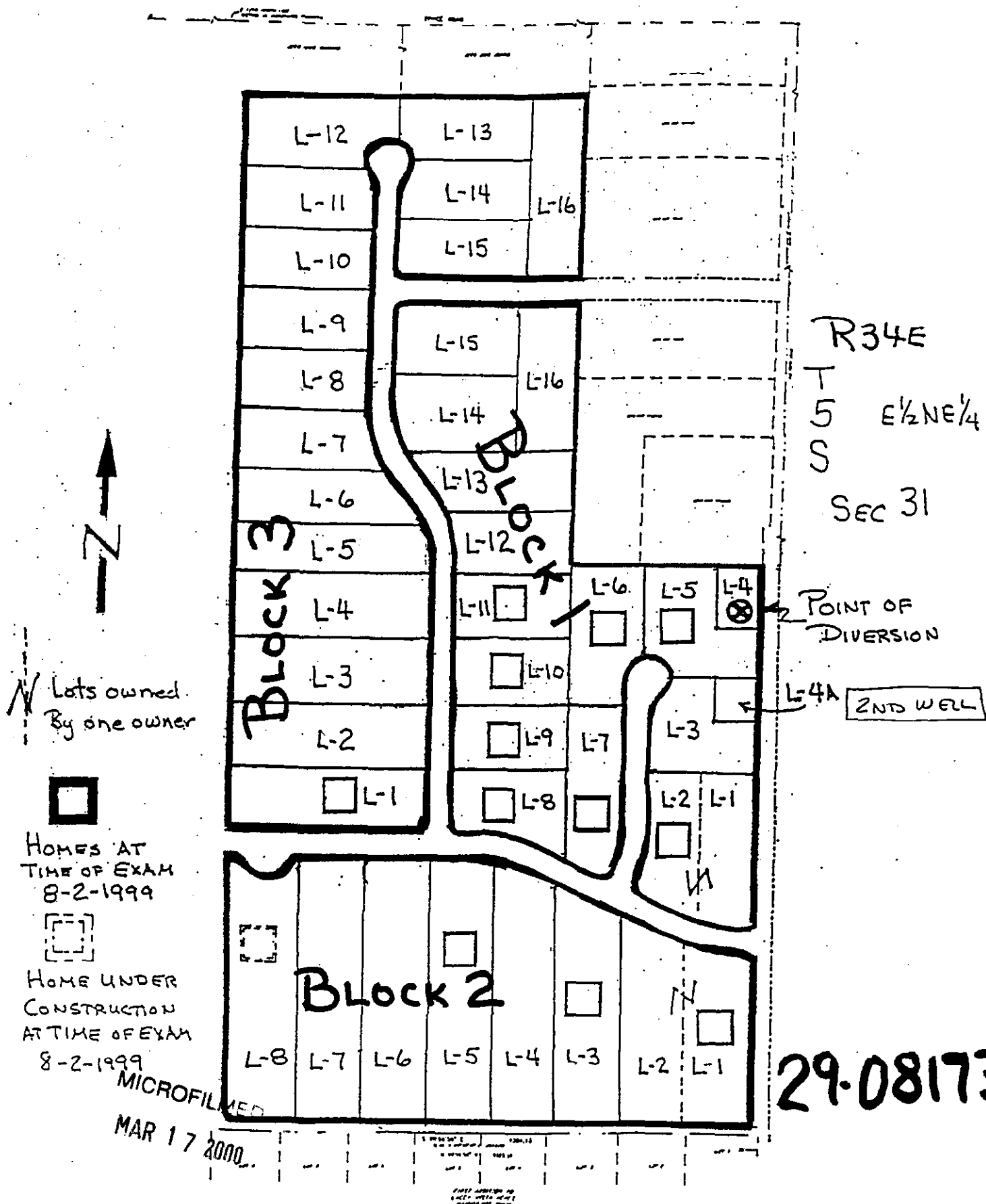
NO

If yes, describe

N/A

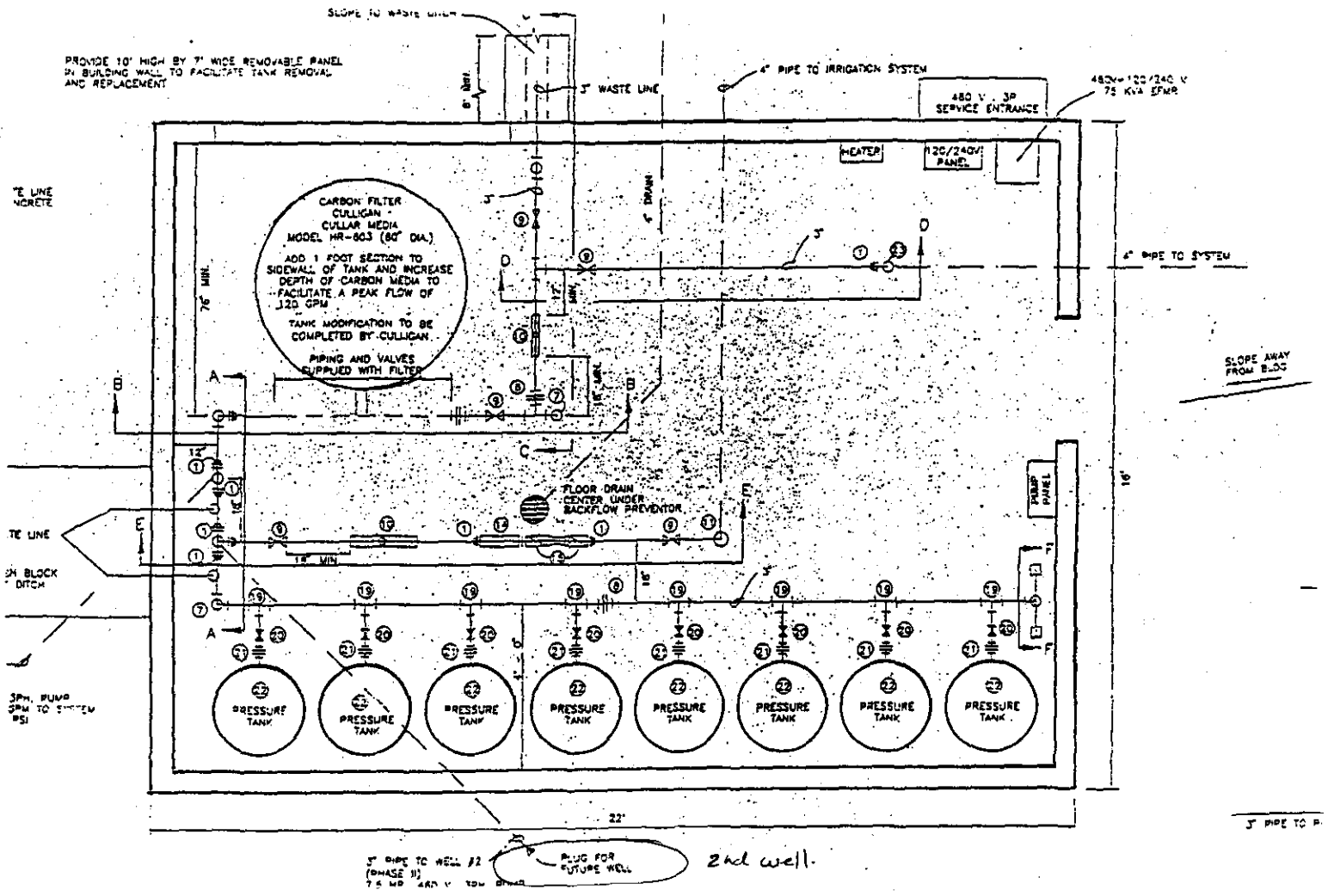
MICROFILMED

MAR 17 2000





SE NE Sec 31, T55, R34E
AKA Lot 4 Block 1, Equestrian Estates

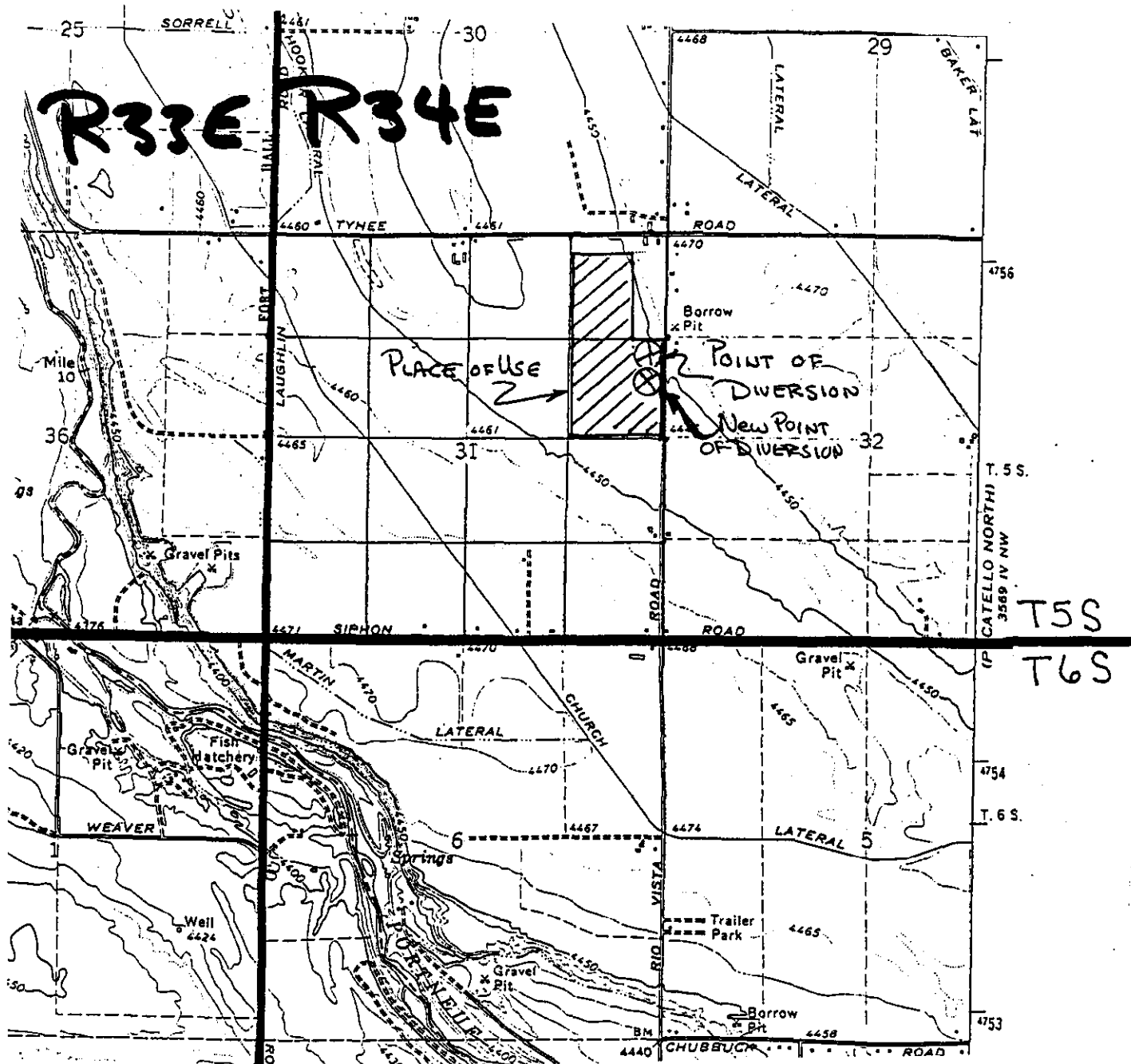


Pump House
MICROFILMED
MAR 17 2000

29-08173

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



PART 3

B. CHANGES IN NATURE OF USE

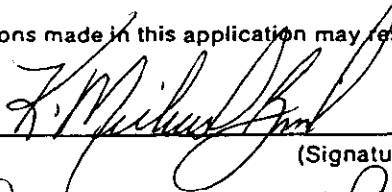
1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

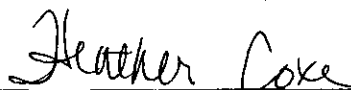
3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.



(Signature of Applicant)

Subscribed and sworn to before me this 30 day of August, 1999.


(Notary Public)

My commission expires 11/18/02

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and _____ attachmentsReceived by HWT Date 9-1-99

Protest filed by _____

Prelim. check by _____ Fee #100.25Receipted by HL # E025266 Date 9-1-99Published in Idaho State Journal

Copies of protest forwarded by _____

Pub. dates Sept 16 & 23, 1999

Hearing held by _____ Date _____

Watermaster recommendation requested on _____

Recommended for ☐ approval ☐ denial

_____ rec'd. _____

by _____

Copy of transfer sent to lien holder _____

MICROFILMED

MAR 17 2000

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 29-08173

Priority: July 19, 1996

Maximum Diversion Rate:

0.27 CFS

Maximum Diversion Volume:

21.0 AF

This is to certify, that HERITAGE DEVELOPMENT

C/O MIKE BIRD

609 W MAPLE

POCATELLO ID 83201

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 5, 1996; and has submitted Proof of Beneficial Use on October 15, 1997. An examination indicates that the works have a diversion capacity of 0.330 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.27 CFS	21.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SENE , Sec. 31, Township 05S, Range 34E
BANNOCK County

PLACE OF USE: DOMESTIC

TWN RGE SEC

05S 31E 31

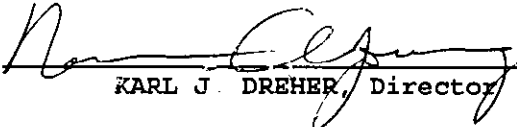
NENE

SENE

CONDITIONS OF APPROVAL AND REMARKS

1. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.
2. Point of diversion is located within Lot 4, Blk. 1, Equestrian Estates.
3. Places of use are located within Lots 1-3 and 5-16, Blk. 1; Lots 1-8, Blk. 2; and Lots 1-16, Blk. 3; Equestrian Estates.
4. Domestic use is for 35 homes and does not include lawn, garden, landscape, or other types of irrigation.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 13th day of AUGUST, 1999.


KARL J. DREHER, Director

MICROFILMED
AUG 23 1999

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 29-08173) **ORDER OF**
)
IN THE NAME OF HERITAGE DEVELOPMENT) **REINSTATEMENT**
)

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before September 1, 1997; and,

WHEREAS, the Department notified the permit holder on June 30, 1997, by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, the Department mailed the permit holder a lapse notice on September 8, 1997, since an acceptable proof of beneficial use or extension of time request had not been received; and,

WHEREAS, Section 42-218a, Idaho Code, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting an acceptable proof of beneficial use on October 15, 1997;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 29-08173 is **REINSTATED** with an advance in priority to **July 19, 1996**.

DATED this 21 day of January, 1998.

L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED

JAN 06 1963

FOR OFFICE USE ONLY
Amt. of Fee \$: 50.00
Receipt No.: 0000001
Receipt By: JS
Date Received: 10/15/97
CO40844-12-8-97
RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

OCT 15 1997

PROOF OF BENEFICIAL USE

Department of Water Resources

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

1. Permit No. 29-08173 Telephone No. 208-234-1820

2. Name(s) of Permit Holder(s): Heritage Development, LLC

3. Mailing Address: P.O. Box 2684 Postville Idaho 83206

4. Source of Water: Well If GROUNDWATER (well), Date Drilled: mo. 12 / yr. 96

a. Well Driller: Jack Cushman Drilling Permit Number: 29-96-E-0110

b. OPTIONAL:
Pump Horsepower: 10 Pressure (psi): 50-70 Dynamic pumping level (ft):

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

Domestic (No. of households): 22 Stockwater (No. and type of stock): N/A

Irrigation (No. of acres): N/A Other:

6. Total rate of diversion and/or volume for which proof is submitted: .31 cfs OR acre feet

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

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

Measuring Device: Is a measuring device required? Yes ☒ or No

Has the measuring device been installed? Yes ☒ or No

Flow Measurement Port: Is a flow measurement port required? Yes or No ☒

Has the measurement port been installed? Yes or No ☒

8. Fee Enclosed: \$ 50 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: Mike Bird Telephone Number: 208-234-1820

Address: 609 W Maple Postville Id. 83201

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

Signature of permit holder: [Signature] Date: Oct 12 1997
(include your title, if on behalf of company or organization)

JAN 06 1998

State of Idaho
Department of Water Resources
Permit To Appropriate Water
NO. 29-08173

Proposed Priority: June 5, 1996

Maximum Diversion Rate:

0.27 CFS

This is to certify, that **HERITAGE DEVELOPMENT**
PO BOX 2684

POCATELLO ID 83204-2684

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

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

DOMESTIC

01/01 to 12/31

0.27 CFS

LOCATION OF POINT(S) OF DIVERSION:

SENE , Sec. 31, Township 05S, Range 34E
BANNOCK County

PLACE OF USE: DOMESTIC

TWN RGE SEC

05S 31E 31

NENE

SENE

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **September 1, 1997.**
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4. The right holder shall comply with Idaho well construction standards when constructing a well pursuant to this right.
5. The issuance of this right does not grant any right-of-way or easement across the land of another.
6. Two points of diversion are located within SENE, S31, T05S, R34E.
7. Points of diversion are located within Lots 3-4, Blk. 1, Equestrian Estates.
8. Places of use are located within Lots 1-14, Blk. 1 and Lots 1-21, Blk. 2; Equestrian Estates.
9. Domestic use is for 35 homes.
10. Domestic use does not include lawn, garden, landscape, or other types of irrigation.

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

16th day of August, 1996.

RECEIVED

SEP 11 1996

[Signature]
for
Karl J. Dreher, Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JUL 22 1996

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of Applicant Heritage Development Phone 232-1126
Mailing address P.O. Box 2684 Pocatello, ID 83204
2. Source of water supply Community Well which is a tributary of _____
3. Location of point of diversion is Township 3S Range 34 EBM Sec. 31 in the SEEK 1/4, NE 1/4, 1/4, Govt. Lot _____, B.M., Bannock County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.275 for domestic purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

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

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

5. Total quantity to be appropriated is (a) 0.27 CFS and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source 2 wells & Pump
- b. Height of storage dam NA feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
- c. Proposed well diameter is 8 inches; proposed depth of well is Approx 150 feet
- d. Is ground water with a temperature of greater than 85°F being sought? NO
- e. If well is already drilled, when? NA; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____

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

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

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. 35
- e. Other; describe fully. _____

SEP 11 1996

9. Description of place of use:

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

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
SS	3/E	31	D			D													

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

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

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

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

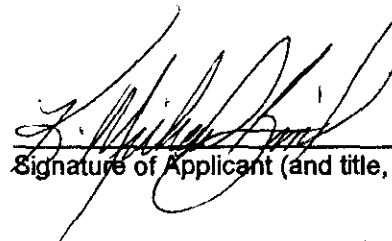
12. Remarks: Need water rights - for 2 Community Wells

Serving 35 homes

234-180 Pros - Michael Bird } Partners
 234-7820 - Gary Gibson }
 234-4667 - Jay Christensen }

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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


 Signature of Applicant (and title, if applicable)

SEP 11 1996

Received by HWT Date 6-5-1996 Time _____ Preliminary check by _____
 Fee \$ 00.00 Received by HWT # E022246 Date 6-5-1996
 Publication prepared by RB Date _____ Published in Idaho State Journal
 Publication approved _____ Date _____

TYHEE RD

30

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Sy. Past

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T-11

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48-118

2-1

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6

FIRST ADD. TO

ACEY VISTA ACRES

LACY VISTA AC

Albert M. Johnson

4 Lines

New
Ag
Prop

J.H. Jackson, Jr.

Wheelchair

1
11
3-1

TFC

21

43

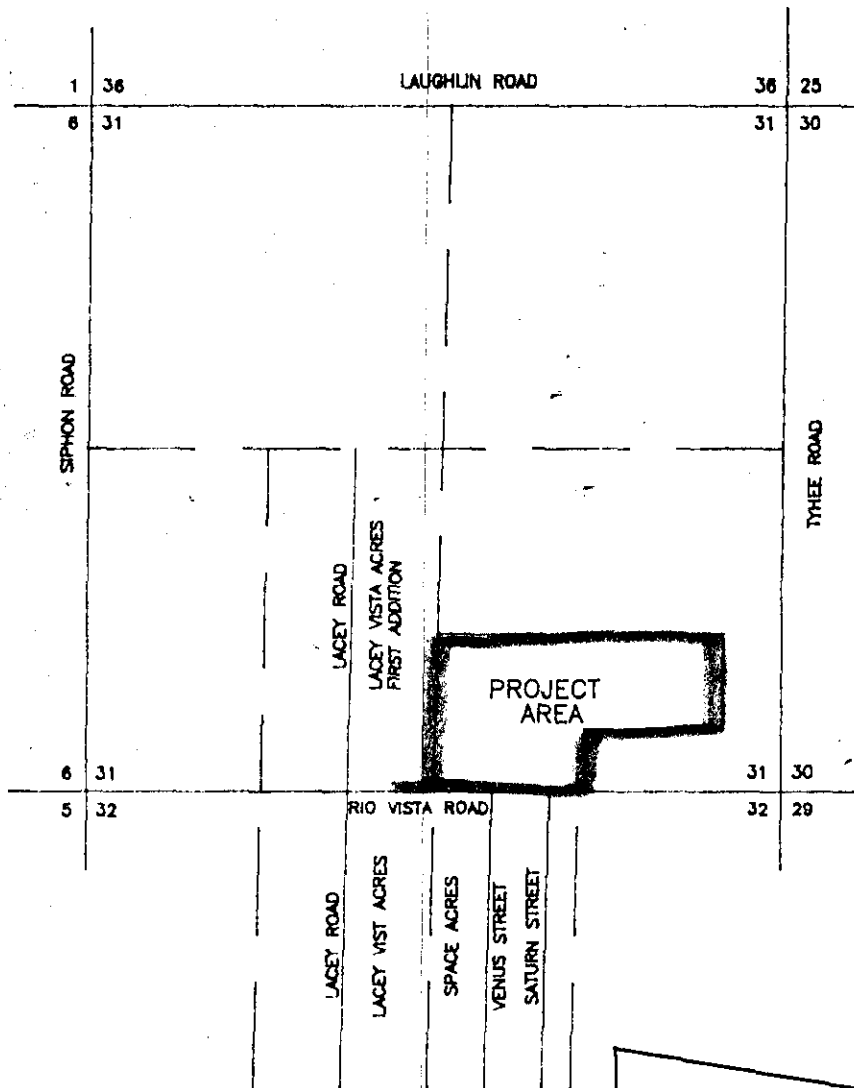
22

11

11

52

53



VICINITY MAP

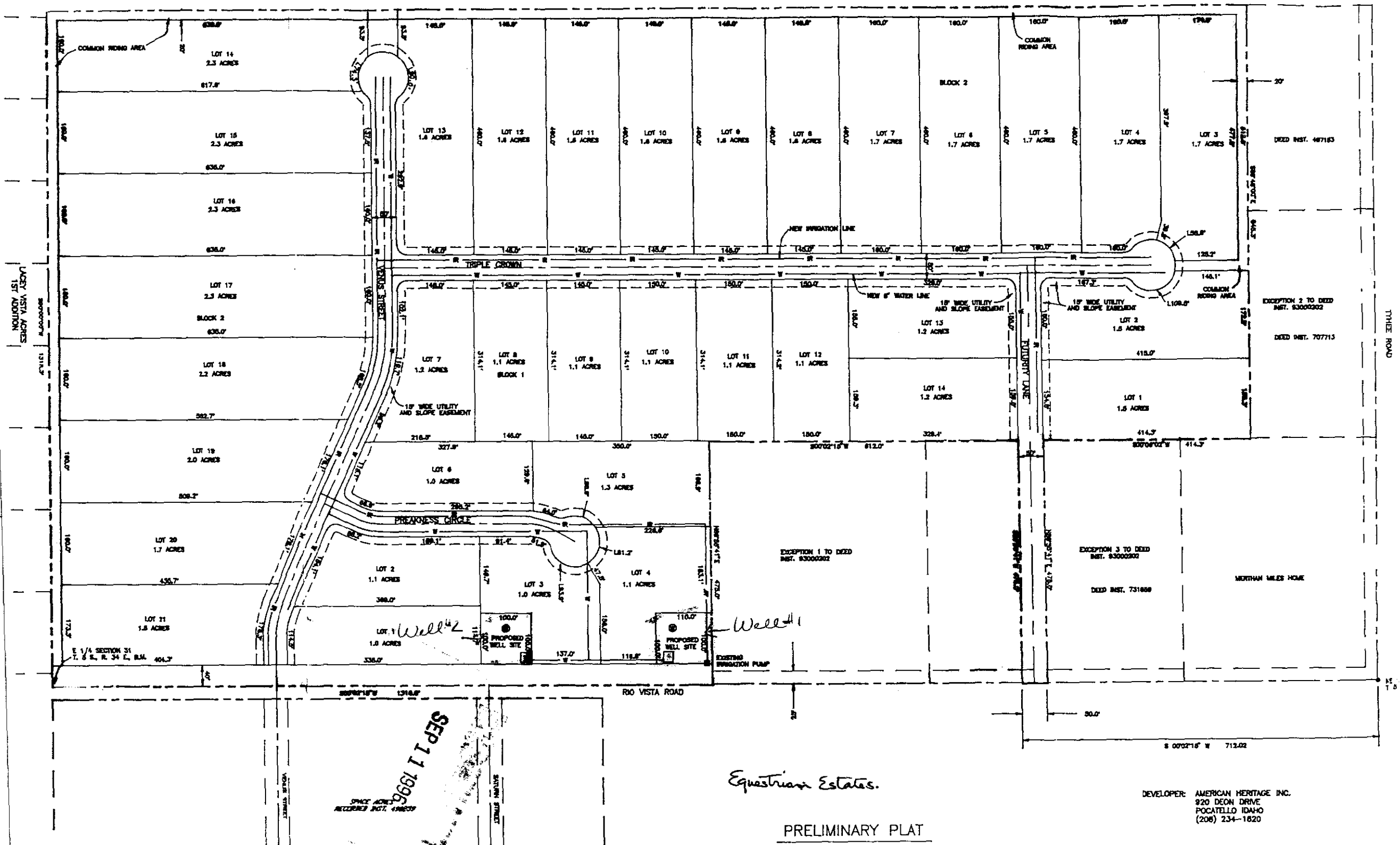
TYHEE ROAD

DEED INST. 497183

SECTION 2 TO DEED
INST. 93000202

DEED INST. 707713

SEP 11 1996



Equestrian Estates.

PRELIMINARY PLAT

DEVELOPER: AMERICAN HERITAGE INC.
920 DEON DRIVE
POCATELLO IDAHO
(208) 234-1820



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 7, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

HERITAGE DEVELOPMENT
C/O MIKE BIRD
609 W MAPLE
POCATELLO ID 83201

RE: Water Right 29-08173 (Transfer 5557)

Dear Mr. Bird:

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water right (Transfer 5557). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact the department if you have questions.

Sincerely,

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED

MAR 17 2000

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of **March, 2000** I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

RE: WATER RIGHT 29-08173 (Transfer 5557)

**HERITAGE DEVELOPMENT
C/O MIKE BIRD
609 W MAPLE
POCATELLO ID 83201**


**Kari Lynn Townsend
Secretary**

MICROFILMED

MAR 17 2000

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

PROOF OF PUBLICATION

RECEIVED

SEP 24 1999

STATE OF IDAHO }
County of Bannock } ss.

LN5614

SUSIE TUBBS

Department of Water Resources
Eastern Region

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT NO. T5557

Notice is hereby given that Heritage Development, c/o Mike Bird, 609 W. Maple, Pocatello ID 83201, has applied to the Department of Water Resources to add a point of diversion and to correct the place of use of a ground water source. The right sought to be changed is evidenced by a license and recorded as follows:

License No.: 29-08173
Source: Ground water
Amount: 9.27 cfs
Priority: 07/19/1996
Point of Diversion: SENE
SEC 31 T05S R34E,
BANNOCK COUNTY.
The water is used of domestic use within
SEC 31 T5S R31E,
B.M.

TO BE CHANGED AS FOLLOWS:

The applicant has been required by the Division of Environmental Quality to install a second backup well in the Equestrian Estates Subdivision. It will be located in the SENE SEC 31 T05S R34E, Bannock County.

Any protests against approval of the proposed changes must be filed with the Idaho Department of Water Resources, 800 N Skyline Dr. Ste. A, Idaho Falls, ID 83402, together with a protest fee of \$25.00 on or before October 4, 1999. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director
September 16, 23, 1999
LN5614

being first duly sworn on oath deposes and says: That SHE was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

<u>SEPTEMBER 16</u>	<u>19 99</u>	<u>19</u>
<u>SEPTEMBER 23</u>	<u>19 99</u>	<u>19</u>
<u>19</u>	<u>19</u>	<u>19</u>
<u>19</u>	<u>19</u>	<u>19</u>
<u>19</u>	<u>19</u>	<u>19</u>

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

STATE OF IDAHO

COUNTY OF BANNOCK

On this 23RD day of SEPTEMBER in the year of 1999, before me, a Notary Public, personally appeared

SUSIE TUBBS, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Lori A. Skot
Notary Public for Idaho

Residing at POCATELLO

MICROFILMED

MAR 17 2000

My commission expires: FEBRUARY 2003

COPY

Ident. No. 29-99-E-0115-000
Well Tag No. D0011565
Water Right No. 29-08173

Expedited

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR DRILLING PERMIT

Expedited

1. Name: HERITAGE DEVELOPMENT
Address: C/O MIKE BIRD
609 W MAPLE
POCATELLO ID 83201

0

2. Proposed Well Location: Township 05S, Range 34E, Sec. 31, SENE
BANNOCK County

Lot, Block, and Subdivision: Lt 4

Blk 1

EQUESTRIAN ESTATES

3. Proposed Use of Well: Domestic

The use of water for homes, organization camps, livestock and for any other purpose in connection therewith, including irrigation for up to .5 acres of land, if the total use is not in excess of 13,000 gpd; or any other uses, if the total use does not exceed a diversion rate of 0.04 cfs and a diversion volume of 2500 gpd.

Domestic does not include water for multiple ownership subdivisions, mobile home parks, commercial or business establishments, unless the use does not exceed a diversion rate of 0.04 cfs and a diversion volume of 2500 gpd.

4. Well Construction Information:

A. NEW WELL

B. Proposed Surface Diameter 8 In. Proposed Maximum Depth 150 Ft.

C. Anticipated Bottom Hole Temperature: 85 F or less (Cold water well)

(NOTE: Construction diagrams and/or other information may be requested for monitor, low temperature geothermal, municipal and artesian wells.)

5. Construction Start Date: 11/16/1999

6. Anticipated Well Driller: JACK CUSHMAN DRILLING INC (No. 0094)

NOTE: The actual well driller must be identified to IDWR prior to drilling commencement.

7. Applicant's Signature

[Signature]

Date 11-15-99

Title

(Owner, Firm Representative, Other)

Fee \$ 200⁰⁰ Received by *se* No. E025469 Date 11/16/99

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MAR 17 2000

(Continued)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

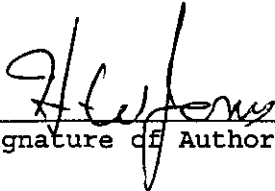
This permit is **APPROVED**

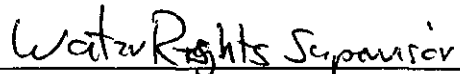
Date: 11/16/1999

If approved, this permit authorizes the construction or modification of a well subject to the following conditions. **READ CAREFULLY!**

CONDITIONS OF APPROVAL:

1. This drilling permit is valid for two (2) months from the approval date for the start of construction and is valid for one (1) year from the approval date for completion of the well unless an extension has been granted.
2. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required prior to construction of this well. The local Health Department should be contacted for septic tank/drainfield locations. Domestic wells must not be drilled closer than 100' from any drainfield and 50' from any septic tank. Public Water Supply wells must not be drilled closer than 100' from any drainfield or septic tank.
3. The well shall be constructed by a driller currently licensed in the state of Idaho who must maintain a copy of the drilling permit at the drilling site.
4. Approval of this drilling permit does not authorize trespass on the land of another party.
5. This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.
6. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
7. If a bottom hole temperature of 85 Degrees F (29.44 oC) or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
8. Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "Dig Line " Number for your area is 1-800-342-1585.
9. The well tag for the drilling permit/start card shall be securely and permanently attached to the well casing through welding or by the use of four closed end domed stainless steel pop rivets. The tag attachment will be done at the time of completion of the well, and prior to removing the drill rig from the drill site.
10. see attachments


Signature of Authorized Dept. Representative


Title

EXTENSION OF DRILLING PERMIT

Extension Approved by: _____

Approval Date: _____

Expires On: _____

MICROFILMED

MAR 17 2000



Drilling Permit No. 29-99-E-0115

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXPEDITED ISSUANCE OF A DRILLING PERMIT

Heritage Development, Applicant, requests issuance of a drilling permit prior to approval of a pending Application for Permit or Application for Transfer on file with this department. The request is made for the following reasons:

Finish well before cold weather!

Applicant acknowledges that by accepting a drilling permit and commencing construction he accepts all risk that the well may not ultimately be approved for use.

11-16-99
Date

[Signature]
Signature

MICROFILMED

MAR 17 2000

Transfer 5557

ADDENDUM TO DRILLING PERMIT

1. APPLICATIONS, AS NECESSARY, ARE ON FILE SEEKING AUTHORIZATION TO USE THE WELL FOR THE PURPOSE FOR WHICH IT IS BEING DRILLED.
2. THERE ARE NO APPARENT REASONS THAT THE PENDING APPLICATIONS WILL NOT BE APPROVED AUTHORIZING USE OF THE WELL.
3. THE APPLICANT HAS REQUESTED BY LETTER THROUGH HIS AGENT THAT EXPEDITED APPROVAL IS NEEDED FOR IMMEDIATE CONSTRUCTION.
4. THE DRILLING PERMIT IS CONDITIONED TO SHOW THAT THERE IS NO AUTHORIZATION FOR DIVERSION AND USE OF WATER UNTIL THE WATER RIGHT APPLICATION IS APPROVED.
5. THE APPLICANT BY ACCEPTING THIS DRILLING PERMIT AND COMMENCES CONSTRUCTION ACKNOWLEDGES THAT HE ACCEPTS ALL RISK THAT THE WELL MAY NOT BE APPROVED FOR USE.

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MAR 17 2000

**SHURTLIFF
ENGINEERING**

426 W. Lewis • P.O. Box 11 • Pocatello, Idaho 83204-0011 • (208) 233-1963

November 15, 1999

Mark Dietrich
DEQ
224 south Arthur
Pocatello, Idaho 83204

RE: Equestrian Estates 2nd Addition
New Well

Dear Mr. Dietrich:

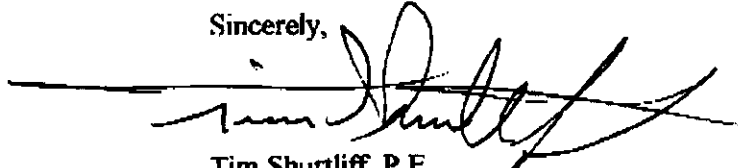
Equestrian Estates 2nd Addition (reference DEQ file #1974) was approved for construction in November 1998, said approval stipulated that the construction was to be completed prior to December 1, 1999.

Equestrian Estates a subdivision located on the west side of Rio Vista Road between Lacy Vista Road was divided into three phases, Equestrian Estates (DEQ file #1842 and 1833), Equestrian Estates 1st Addition (DEQ file #1920), and Equestrian Estates 2nd Addition (DEQ file #1974). All three addition share a common water supply system which is owned and operated by the Homeowners Association. The culinary water system consists of distribution piping, one pump house and two wells. The pump house and one well was constructed in 1997. Construction of all of the improvements for the three phases is now complete with the exception of developing the second well.

Because of the extended time period between developing the two wells, the developer, American Heritage, Inc., PO Box 25205, Pocatello, Idaho 83205, had to reapply with Department of Water Resources for the water rights. It is my understanding Water Resources has approved the water rights, pending DEQ approval.

Please let me know if there is any thing I need to do to expedite the necessary approvals to complete this project.

Sincerely,


Tim Shurtliff, P.E.

Transf # SSS7-IDWR

MICROFILMED
MAR 17 2000



IDAHO DEPARTMENT
OF HEALTH AND WELFARE
DIVISION OF
ENVIRONMENTAL QUALITY

224 South Arthur, Pocatello, ID 83204-3202, (208) 236-6180

Philip E. Batt, Governor

November 3, 1998

FILE COPY

Mr. Mike Bird
American Heritage Inc.
P.O. Box 2584
Pocatello, Idaho 83205

RE: Equestrian Estates 2nd Addition, DEQ-1074¹⁹⁷⁴. PLAN APPROVAL
Location: West side of Rio Vista Road between Siphon Road and
Tyhee Road

Dear Mr. Bird:

The plans and specifications for the referenced water supply and water distribution facilities appear to meet the State of Idaho standards and are approved. Our approval is for thirteen (13) lots and is for design only; final system approval is given after it is established that the system is operating properly.

One approved set of the plans will be sent to your engineer with his copy of this letter.

Deviations from the approved plans that might result in violations of Idaho Regulations, must be reviewed by this office prior to field installation.

This approval will expire /December 1, 1999. If construction is not complete by the expiration date, plans will need to be resubmitted for approval before further construction proceeds.

Construction must be done under the supervision of an Idaho registered professional engineer. Within thirty (30) days after construction, this engineer must provide this office with as-built plans, or a letter of certification stating that the project was installed substantially according to the approved plans.

MICROFILMED

MAR 17 2000

Mr. Mike Bird
Equestrian Estates Second Addition
November 3, 1998
Page 2

If you have any questions, please do not hesitate to contact this office (236-6160).

Sincerely,



Elmer W. (Bill) Smith, P.E.
Senior Water Quality Engineer

Enclosure

cc: Lee Smith, IDEQ, Poc.
Dee Dawson, SE District Health Dept., Poc.
Tim Shurtliff, Shurtliff Engineering, Poc.

MICROFILMED

MAR 17 2000



**State of Idaho
DEPARTMENT OF WATER RESOURCES**

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 8, 1999

HERITAGE DEVELOPMENT
C/O MIKE BIRD
609 W MAPLE
POCATELLO ID 83201

RE: Application for Transfer #5557

Dear Applicant:

This office is currently in the process of advertising the application in the Idaho State Journal on September 16 and 23, 1999. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W. Jones
Water Right Supervisor

HWJ::sc

MICROFILMED

MAR 17 2000



**State of Idaho
DEPARTMENT OF WATER RESOURCES**

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 8, 1999

DEPT OF ENVIRONMENTAL QUALITY
224 S ARTHUR
POCATELLO ID 83204

RE: Applications for Transfer #5557

Dear Sir:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is Oct 4, 1999, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ: sc

Enc.

MICROFILMED

MAR 17 2000



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

SEPTEMBER 8, 1999

Legal Notices Department
IDAHO STATE JOURNAL
P.O. BOX 431
POCATELLO, ID 83204

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before OCTOBER 4, 1999.

Yours truly,

Sharla Cox
Senior Secretary

Encl.



MICROFILMED

MAR 17 2000

**NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. T5557**

Notice is hereby given that Heritage Development, c/o Mike Bird, 609 W Maple, Pocatello ID 83201, has applied to the Department of Water Resources to add a point of diversion and to correct the place of use of a groundwater source. The right sought to be changed is evidenced by a license and recorded as follows:

License No.:	29-08173	Source:	Groundwater
Amount:	0.27 cfs	Priority:	07/19/1996
Point(s) of Diversion: SENE SEC 31 T05S R34E, BANNOCK COUNTY			
The water is used of domestic use within SEC 31 T5S R31E, B.M.			

TO BE CHANGED AS FOLLOWS:

The applicant has been required by the Division of Environmental Quality to install a second back up well in the Equestrian Estates Subdivision. It will be located in the SENE SEC 31 T05S R34E, Bannock County.

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N Skyline Dr., Idaho Falls, ID 83402, together with a protest fee of \$25 on or before October 4, 1999. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

Published in the Idaho State Journal on September 16 and 23, 1999.

MICROFILMED
MAR 17 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Heritage Development
C/O Mike Bird
609 W Maple
Pocatello, ID 83201

RECEIVED

SEP 01 1999

Department of Water Resources
Eastern Region

RE: Transfer to add a second point of diversion to 29-08173 Equestrian Estates

Dear Mr. Bird:

In our discussion on August 2, 1999, we discussed what needed to be done to meet the requirements to add the second well to the domestic system for Equestrian Estates (29-08173). For your convenience enclosed is an application for transfer based on 29-08173 to add the second well to the domestic system. Please review the transfer, sign in front of a notary, and return it to this office with the \$100.00 filing fee.

Your cooperation will be appreciated.

Sincerely,

Keith C. Wilson
Senior Resource Agent

MICROFILMED

MAR 17 2000

MEMORANDUM

DATE: August 25, 1999

TO: Water Right File 29-08173

FROM: Shelley W. Keen *SWK*

RE: Place of Use Description

The place of use description on Water Right License 29-08173, issued 8/13/99, is incorrect. The place of use is in R34E, not R31E. The right holder should have been asked to amend the permit to correct the place of use before the license was issued.

The right holder intends to file an application for transfer to add a point of diversion to the right. The place of use correction will be included in the transfer application. The preliminary order issuing the license will become final 9/3/99 and can be appealed to district court by 10/1/99. Pursuant to Rule 760 of the Rules of Procedure the director can replace the final order any time before 10/1/99. If the transfer application is not filed by 10/1/99, an effort should be made to correct the license.

Transfer application # 5557 was filed 9/8/99.

S.W. Keen

MICROFILMED

MAR 17 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

August 13, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

HERITAGE DEVELOPMENT
C/O MIKE BIRD
609 W MAPLE
POCATELLO ID 83201

RE: WATER RIGHT NO. 29-08173

Dear Water Right Holder(s):

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

Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

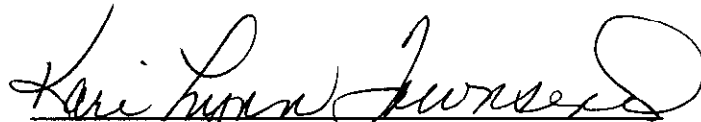
MICROFILMED
AUG 23 1999

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of August, 1999, 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. 29-08173

HERITAGE DEVELOPMENT
C/O MIKE BIRD
609 W MAPLE
POCATELLO ID 83201


Kari Lynn Townsend
Secretary

MICROFILMED
AUG 23 1999

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

MICROFILMED

AUG 23 1999

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
AUG 9 1999
DEPARTMENT OF WATER RESOURCES

A. GENERAL INFORMATION

Permit No. 29-08173

1. Owner: HERITAGE DEVELOPMENT % Mike Bird Phone No. 208 234-1820

Current Address: 609 W MAPLE, POCA TELLO Id 83201

2. Accompanied by: MIKE BIRD & Tim Shurtliff EXAM DATE: 8-2-1999

Address: (SAME AS ABOVE) 426 W Lewis Pocatello Ia Phone No. (208) 234-1820
(208) 233-1963

Relationship to Permit Holder: Mike Bird-developer; Permit holder/Tim Shurtliff-engineer

3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE

2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion: AKA Lot 4, Block 1, Equestrian Estates

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SE	NE	31	5S	34E	Bannock	on site/USGS Quad

2. Place(s) of Use:

ON SITE
Indicate Method of Determination PLAT MAP

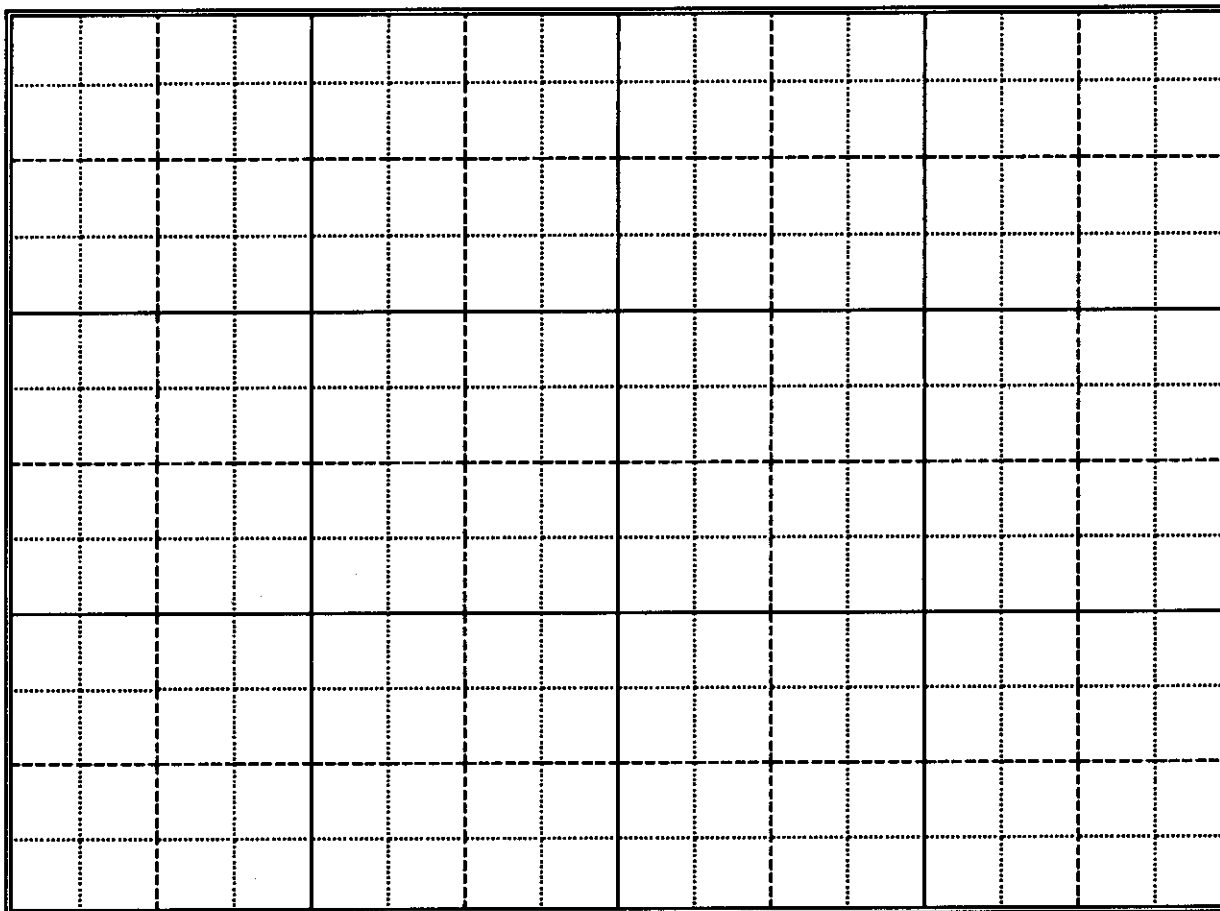
TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5S	34E	31	D			D													

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AUG 23 1999

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

SEE ATTACHED SHEETS



Scale: 1" = _____

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

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

☐ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	GRUNDFOS	10		GRUNDFOS	135 S100-6 (10 HP)

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Totalizing Meter		McCORMICK		9747153		

2. Measurements: 40 psi - 65 psi. Observed rate of Flow (Q) = 150 gpm @ 40 psi

MICROFILMED

AUG 23 1999

E. NARRATIVE/REMARKS/COMMENTS

One well, pump mainline to Carbon filter to pressure tanks and distribution line to 37 lots within EQUESTRIAN ESTATES SUBDIVISION. Note: At the time of the exam there were at least two home owners that owned an adjacent lot. Therefore, maximum number of single domestic homes in subdivision will be 35 homes. Domestic system stubbed into all lots.

Note: There is no irrigation from well under this system. IRRIGATION water is from Fort Hall irrigation and is carried by a different system. Home under construction was in Lot 8 Block 2, Equestrian Estates

At the time of the exam only 12 homes were on the system and there was one home under construction. Lots occupied (12) at the time of this examination were as follows:

Lots (1 & 2) 5, 6, 7, 8, 9, 10, and 11, Block 1, Equestrian Estates

Lots (1 & 2) 3, and 5 Block 2, Equestrian Estates

Lot 1 Block 3, Equestrian ESTATES

(Lots indicated as "Lots (1 & 2)" have only one home on both lots)

(At time of exam all homes attached to domestic system were w/in SENE Sec 31, T55, R34E)
Point of Diversion located on Lot 4, Block 1 Equestrian ESTATES

PLACE OF Use AKA

Lots (1 & 2) 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 Block 1,

Lots (1 & 2) 3, 4, 5, 6, 7, and 8 Block 2, and Lots 1-16 Block 3,
Equestrian Estates Subdivision

Note: Second well under permit has not been drilled. Permit holder will apply for a transfer to add a point of diversion to the system as soon as permit is licensed. (2nd well will be in Lot 4 A, Block 1, Equestrian Estates)
aka

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

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F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

$$Q = 150 \text{ gpm} = 0.33 \text{ cfs}$$

$$Q_{\text{LIMITED TO PERMITTED AMOUNT}} = 0.27 \text{ cfs}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\hspace{2cm}}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\hspace{2cm}}$$

2. Volume Calculations for Other Uses:

$$V_{Dom} = 35 \times 0.6 = 21.0 \text{ cfs}$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Domestic (35 units)	1/1	12/31	0.27 cfs	21.0 af
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			0.27 cfs	21.0 af

2. Recommended Amendments

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

I. AUTHENTICATION

Field Examiner's Name

Keith C. Wilson
KEITH C. WILSON

Date

8-3-1999

Reviewer _____

Date _____

SEAL
MICROFILMED
AUG 23 1999

TO: 8-25-99
Water Allocations

FROM:
KEITH C. WILSON

RE: Water Right 29-08173

RECEIVED
AUG 30 1999
Department of Water Resources

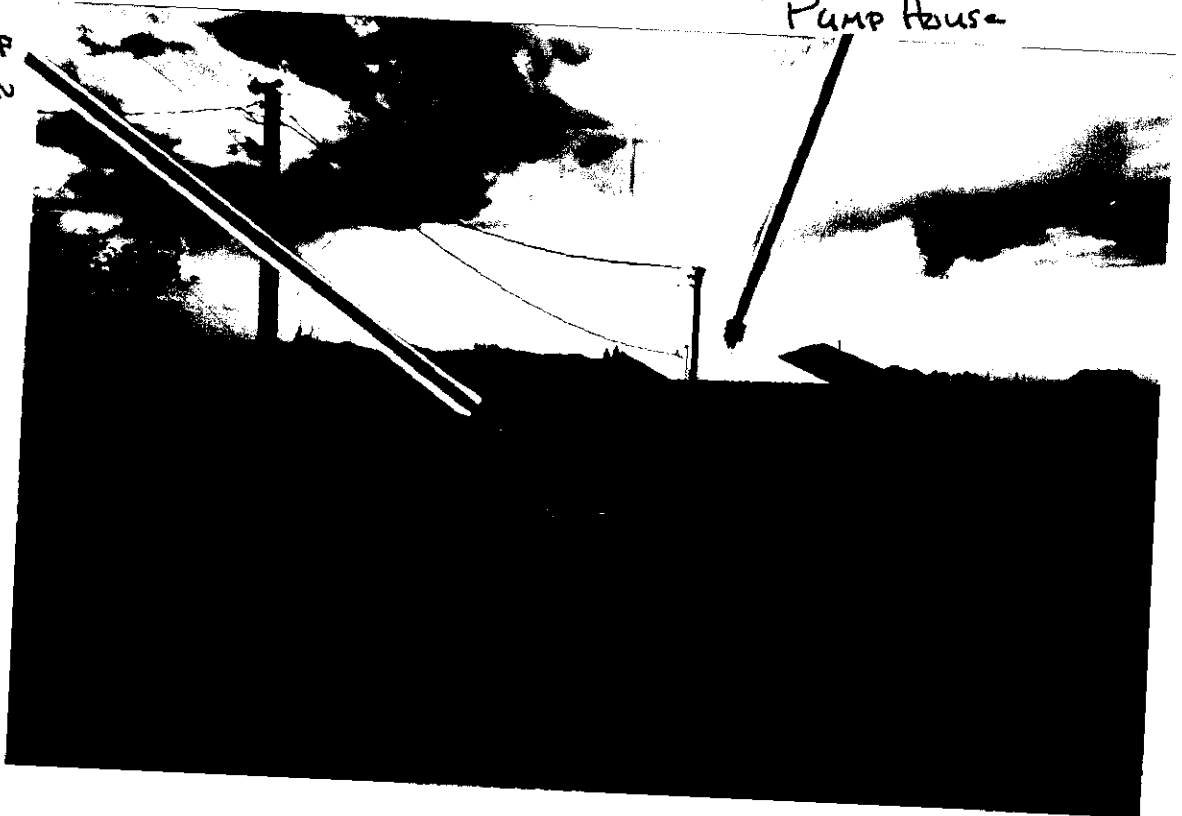
Please include these
photos in Water Right file
for 29-08173

Keith C. Wilson



FLOW METER
INSIDE PUMP HOUSE

POINT OF
DIVERSION



Pump House

29-08173

R33E R34E

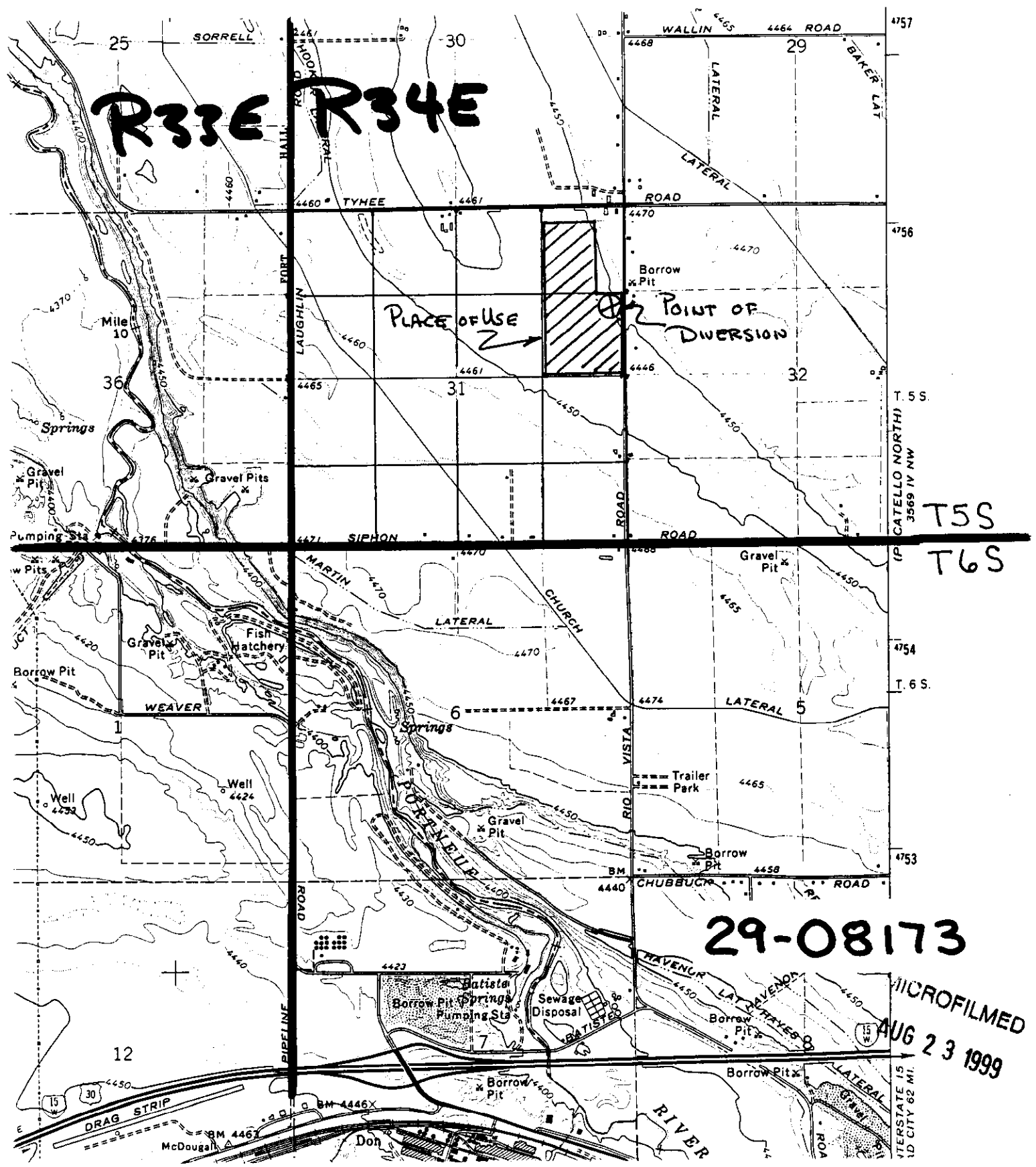
PLACE OF USE

POINT OF DIVERSION

T5S
T6S

29-08173

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AUG 23 1999





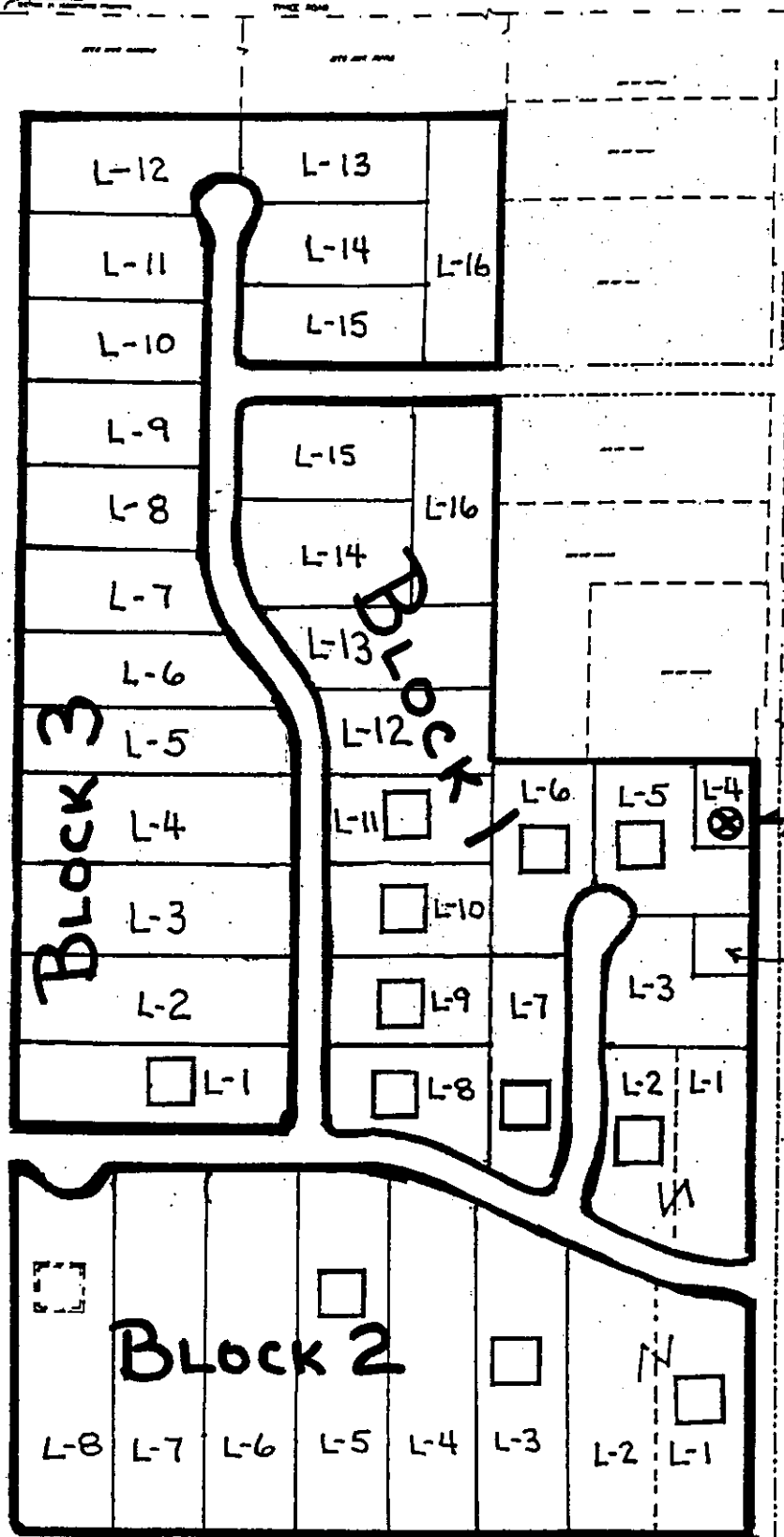
✓ Lots owned
By one owner



HOMES AT
TIME OF EXAM
8-2-1999



HOME UNDER
CONSTRUCTION
AT TIME OF EXAM
8-2-1999



R34E

T 5 E 1/2 NE 1/4
S

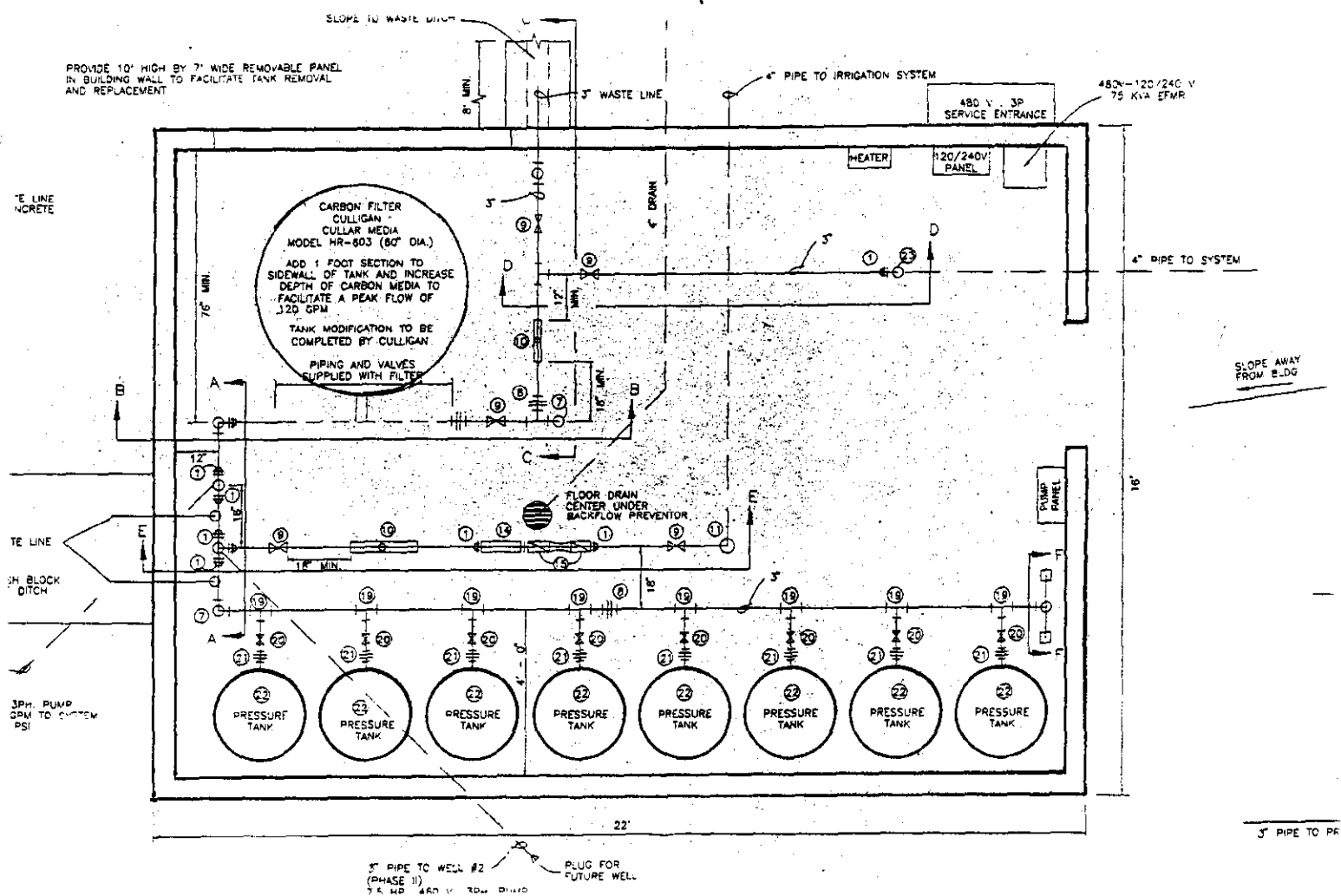
SEC 31

POINT OF
DIVERSION

29-08173

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AUG 23 1999

AKA Lot 4 Block 1, Equestrian Estates



Pump House

29-08173



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 2, 1998

Heritage Development
PO Box 2684
Pocatello ID 83204

PROOF ACKNOWLEDGMENT LETTER

RE: Permit No. 29-08173

Dear Permit Holder:

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

Enclosed is an order reinstating the permit since proof was submitted after the proof due date. Note that the priority date has been advanced to July 19, 1996, as provided in Section 42-218a.2, Idaho Code.

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

The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water. If you have questions concerning the field examination, you may contact the **Eastern** Regional Office of the department in Idaho Falls at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

Enclosure

c: IDWR - Region

MICROFILMED

JAN 06 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 20, 1997

Heritage Development
PO Box 2684
Pocatello ID 83204

RE: Permit No. 29-08173

Dear Permit Holder:

Returned is a copy of the Proof of Beneficial Use statement you submitted in connection with the above referenced water right permit. Before the department can accept the proof, it must be accompanied by the appropriate license examination fee. You indicate on the proof statement that you are diverting 0.31 cfs from a ground water source for mutiple domestic use. The license exam fee for a rate of diversion of 0.31 cfs is \$100.00.

Please return the copy of the proof statement along with the additional \$50.00 license examination fee within **30 days** of receipt of this letter. **Please address your correspondence to my attention.**

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

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

Enclosure

c: IDWR- E.Region

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American Heritage

Homes of Distinction

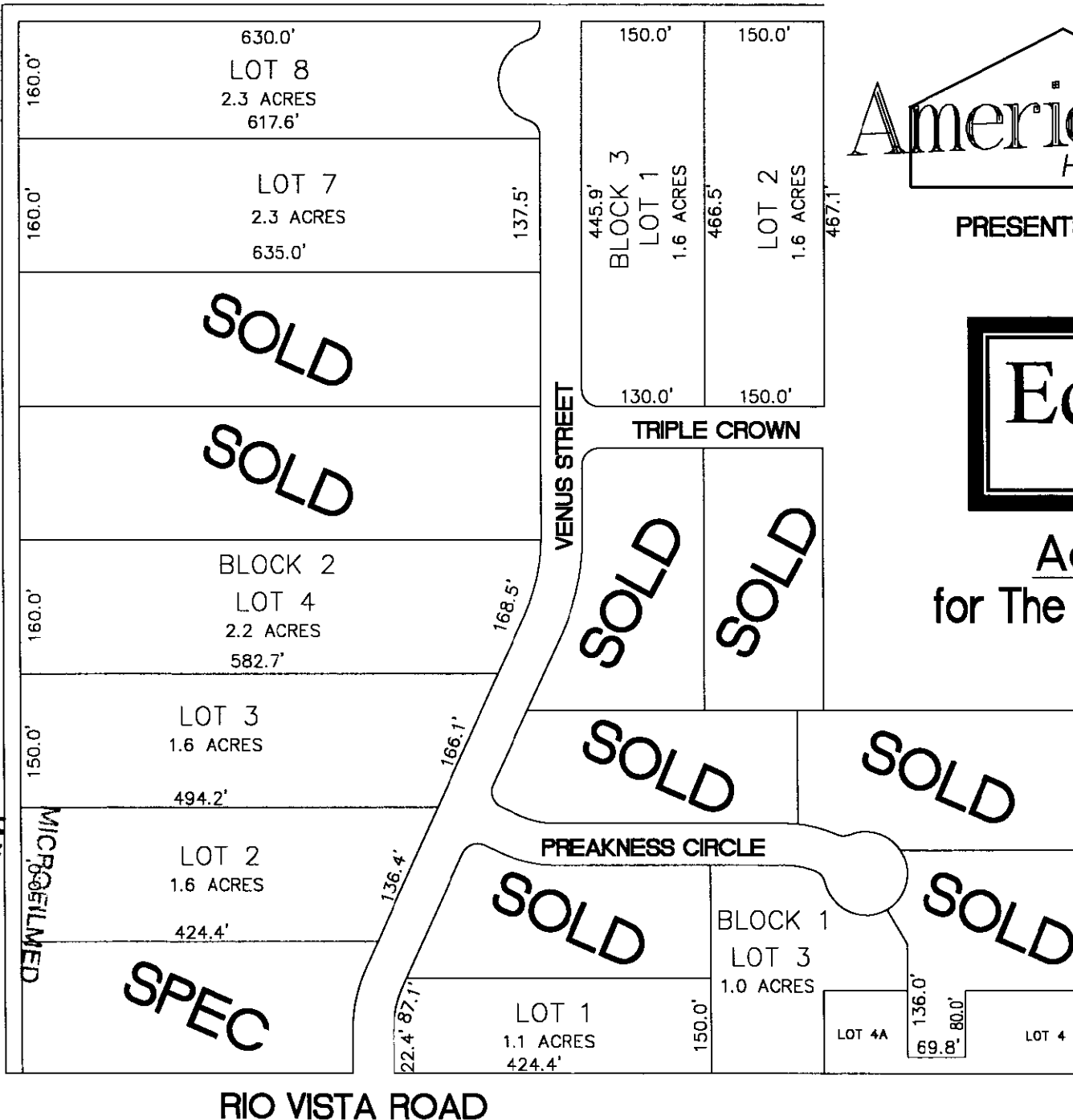
PRESENTS ...



Acreage Lots
for The Finest in Rural Living

Build Your Dream Home
In North Pocatello's Newest
Acreage Development!

JAN 8 6 1998



KEY: SOLD-LOT UNAVAILABLE LOT #-AVAILABLE

EFFECTIVE DATE 7/10/97

BY-LAWS
FOR
EQUESTRIAN ESTATES, INC.
A NOT FOR PROFIT IDAHO CORPORATION

MICROFILMED

JAN 06 1998

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CODE OF BY-LAWS
OF
EQUESTRIAN ESTATES, INC.
A NON-PROFIT IDAHO CORPORATION

ARTICLE I -- IDENTIFICATION

Section 1. NAME. The name of the Corporation is Equestrian Estates, Inc. (hereinafter referred to as the "Corporation").

Section 2. REGISTERED OFFICE. The address of the registered office of the Corporation is 15170 West Lacey Road, Pocatello, Idaho 83202.

Section 3. FISCAL YEAR. The fiscal year of the Corporation shall begin on the 1st day of January of each year and end on the 31st day of December of that calendar year.

ARTICLE II -- STOCK

Section 1. THREE CLASSES. There shall be three classes of stock issued by the Corporation. The first being for the domestic culinary water system and each lot shall be entitled to one share of stock from the Corporation. The second being for the path association and each lot shall be entitled to one share of stock from the Corporation. The third class of stock shall be for the distribution and delivery of the irrigation water. With the third class of stock there shall be one share of stock issued for each acre of ground and in addition thereto, a quarter share of stock shall be issued to every quarter acre of ground in excess of one acre. Assessments shall be based on the shares of stock.

Section 2. CONSIDERATION FOR SHARES. Payment for the lot shall include payment for one share of stock in the culinary water system, one share of stock in the path association, and one or more shares of stock in the irrigation system pursuant to lot size. No certificates will be issued. Title to the property will be evidence of ownership of the share of stock in the culinary water system, the path association, and the irrigation system.

Section 3. NO PUBLIC OFFERINGS. The shares of the Corporation shall not be offered to public subscription but shall remain appurtenant to the land with the Equestrian Estates Subdivision and its various additions.

Section 4. TRANSFER OF STOCK. The shares of the Corporation shall be transferable only on the books of the Corporation upon proof of transfer of the real property. Transfer of stock shall be limited to those who own an interest or are purchasing and interest in the land within Equestrian Estates Subdivision and its additions. The amount of stock is fixed for each lot and shall not be transferred or redistributed to any other lot.

ARTICLE III -- ASSESSMENTS TO SHAREHOLDERS

Section 1. THREE SEPARATE SYSTEMS. The corporation shall offer three separate and distinct systems consisting of (1) culinary water, (2) path association, and (3) irrigation water. The first being a culinary system, the second being a riding/walking path association and third, an irrigation water distribution system.

Section 2. ANNUAL ASSESSMENTS. There shall be an annual assessment fixed by the Board of Directors for the irrigation system and to the path association. The rates shall be fixed annually, and shall reflect not only current expenses but such expenses for costs and maintenance for long term operation for the irrigation water delivery system and the maintenance and upkeep of the riding/walking path including all anticipated costs and expenses for maintaining and operating both systems. A fund shall be created and set aside for ongoing operations and repairs including major repairs of each system and the costs of analyzing both systems shall be completed on an annual basis, being mindful of the long term successful operation each system.

JAN 06 1938

It is specified that there shall be two separate and distinct annual assessments. One assessment shall be for the irrigation system and the second assessment shall be for the path association. Separate accounts shall be maintained for the irrigation system and the path association.

Section 3. MONTHLY ASSESSMENTS. There shall be a monthly assessment fixed by the Board of Directors for the culinary system. The monthly base rate shall be determined annually, and shall reflect not only current expenses but such expenses for costs and maintenance for long term operation for the culinary water delivery system and the anticipated replacement costs of filters including all actual appreciated costs and expenses for maintaining and operating the culinary system. A fund shall be created and set aside for ongoing operations and repairs including major repairs of the system and the costs of analyzing the system shall be completed on an annual basis, being mindful of the long term successful operation the system. A separate account shall be kept for the culinary system. There shall be a base rate of \$_____ per month for the first _____ thousand gallons of water used by each lot owner. The rate will increase \$_____ for each additional one thousand gallons of water used over the base rate up to _____ thousand gallons and then shall increase to \$_____ for each additional one thousand gallons of water used above that volume each month. Vacant lots are to be assessed 1/2 the base rate. Meters are to be read in a uniform manner on a monthly basis except for winter months in freezing conditions.

Section 4. UNEXPECTED EXPENSES. In the event that necessary and extraordinary expenses are incurred, e.g. to replace pump or lines within any of the three systems a special assessment may be made which shall have the same force and effect as the annual or monthly rate assessment as may be determined by the Board of Directors.

Section 5. COLLECTION. As to each such system, the corporation shall have the power and the right to levy to collect from the holders and owners of all such land to which the stock (all three classes) belongs any charges for maintaining or operating the culinary and/or irrigation water system, and the path association regardless of whether the water or path is used by such holder or owner. As to any charges, assessments, costs as determined by the Board of Directors to be appropriate, the Corporation shall have the power and the right to create a first lien for non-payment if more than 45 days delinquent [except for a lien for tax] upon the land or parcel of land or lot within the subdivision, said lien may be foreclosed upon pursuant to the consistent to Idaho law. Assessments not paid within 60 days of billing shall accrue interest at 12% per annum plus a penalty of 10%. In the event an assessment is not paid within 120 days of billing, the directors are to turn the delinquent account over to a collection agency or to small claims. All costs of collection including, but not limited to filing, service, and garnishment fees shall be added to the amount owing on such delinquent account. The officers of the association shall be authorized to refuse further delivery of water from the culinary or irrigation systems of any member who is delinquent in paying any billing or assessment after notice. Any exceptions or extensions of time for payment must be approved by two thirds of the Board of Directors by resolution.

ARTICLE IV -- USAGE AND SPECIAL LIMITATIONS

Section 1. WATER USAGE. Further, the metered culinary water system is designed for domestic uses inside the home and minimal use outside including yard care of an area not to exceed one-eighth acre, beyond that the irrigation distribution system is to provide irrigation water for the balance of the lot, and said irrigation shall be provided through a sprinkling system. No flood irrigation shall be permitted. No permanent irrigation system (including but not limited to manual and/or automatic lawn and yard sprinkling systems) shall be connected to the culinary water line. There are to be no cross connections between the irrigation and culinary water lines on individual lots. In the spring and fall (before and after the Ft. Hall irrigation water is available), irrigation water shall be made available in the irrigation delivery system from the culinary wells. This irrigation water will be non-filtered well water and is to be used only for necessary maintenance of yard areas and gardens. Pastures and other large areas are not to be irrigated during these times but shall only be irrigated when ditch water is available in the irrigation system.

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Section 2. USE OF THE RIDING/WALKING PATH. Only members of the "Equestrian Estates Path Association" and their temporary guests are to use the riding/walking path. All lot owners are automatically members of the path association. Additionally, any property owners outside of Equestrian Estates whose property is adjacent to the north and south property lines will be permitted to join the path association if they so choose. A requirement of these additional members will be that they agree to pay their share of annual maintenance expenses for the path and abide by the rules and regulations as outlined herein. Additional members to the path association, who are not adjoining property owners, may be allowed to join if approved by the board of directors on a case by case basis not to exceed ten additional members. The board of directors shall have authority to terminate memberships from non adjacent property owners due to overuse or for any other reason should they feel a need to do so. No motorized vehicles of any kind shall be permitted on said path, except as deemed necessary by the Association for maintenance and upkeep. No reckless racing or other unsafe activities are to be allowed on said path.

ARTICLE V -- MEETINGS OF SHAREHOLDERS

Section 1. PLACE OF MEETINGS. Meetings of the shareholders of the Corporations shall be held at the place of notice of said meeting within or without the State of Idaho as shall be designated by the Board of Directors.

Section 2. ANNUAL MEETING. The annual meeting of the shareholders of the Corporation for the purpose of electing Directors and transacting such other business as may be specified in the notice thereof, shall be held at the principal office of the Corporation or at such other place either within or without the State of Idaho, as may be specified in said notice, upon March 3rd, if not a legal holiday, and if a legal holiday, then on the following day, at 8:00 p.m., unless another day shall be determined by the Board of Directors, but in no event shall such date as determined by the Board of Directors be earlier than sixty (60) days or later than 120 days after the close of the fiscal year of the Corporation.

Section 3. SPECIAL MEETINGS. Special meetings of the shareholders may be called by the President, the Board of Directors, or the holders of not less than ten percent (10%) of all the shares entitled to vote at the meeting.

Section 4. NOTICE OF MEETINGS--WAIVER. Written or printed notice, stating the place, day and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President, to each shareholder at his address as it appears on the stock transfer books of the Corporation with postage thereon prepaid. Waiver by a shareholder in writing of notice of a shareholders' meeting, signed by him, whether before or after the time of such meeting, shall be equivalent to the giving of such notice. Attendance by a shareholder, whether in person or by proxy, at a shareholders' meeting shall constitute a waiver of notice of such meeting of which he has notice.

Section 5. VOTING AT MEETINGS.

Clause (a). VOTING RIGHTS. Every holder of the capital stock of the corporation shall be entitled to two votes per lot owned. At the election for Directors, every holder of the capital stock of the Corporation shall have the right to vote, in person or by proxy, two votes per lot for as many persons as there are Directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many of such Directors multiplied by the number of his votes shall equal, or by distributing such votes on the same principle amount any number of such candidates.

Clause (b). QUORUM. A majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at meeting of the shareholders, but in no event shall a quorum consist of less than five (5) of the shareholders in person at the meeting entitled to vote. The shareholders present at a duly organized meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

RECORDED
3
JAN 16 1938

Clause (c). PROXIES. A shareholder may vote either in person or by proxy executed in writing by the shareholder, or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months for the date of its execution.

Clause (d). VOTING OF SHARES OWNED BY OTHER CORPORATION. Shares standing in the name of another corporation may be voted by such officer, agent or proxy as the Code of By-Laws of such other corporation may prescribe or, in the absence of such provision, as the Board of Directors of such other corporation may determine; or, in the absence of such provision or determination, as the President or Vice-President and Secretary or Assistant Secretary of such other corporation may be proxy, duly executed and sealed (but not necessarily acknowledged or verified), designate.

Clause (e). VOTING OF SHARES OWNED BY FIDUCIARIES. Shares held by an administration, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. It shall not be necessary for such fiduciary to obtain a court order authorizing him to vote such shares. The general proxy of a fiduciary shall be given the same weight and effect as the general proxy of an individual or corporation.

Section 6. ORDER OF BUSINESS. The order of business at annual meetings, and so far as practicable at all other meetings of shareholders shall be as follows:

- I. Proof of due notice of meeting.
- II. Roll call-examination of proxies.
- III. Reading and disposal of any un-approved minutes.
- IV. Annual reports of officers and committees.
- V. Establishment of Water Rights.
- VI. Unfinished business.
- VII. New business.
- VIII. Election of Directors.
- IX. Adjournment.

ARTICLE VI -- THE BOARD OF DIRECTORS

Section 1. NUMBER AND QUALIFICATIONS. The business and affairs of the Corporation shall be managed by the Board of Directors, at least fifty-one percent (51%) of whom shall be stockholders of the Corporation. There shall be at least three but not more than nine directors. The number of Directors may be increased or decreased from time to time by resolution at the annual meeting of shareholders; but no decrease shall have the effect of shortening the term of an incumbent Director.

Section 2. ELECTION. Members of the initial Board of Directors shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and qualified. At the first annual meeting of shareholders, and at each annual meeting thereafter, the shareholders shall elect Directors to hold office until the next succeeding annual meeting. Each Director shall hold office for the term for which he is elected and until his successor shall be elected and qualified. There may be classification of Directors or staggering of their terms as determined at the shareholders annual meeting.

Section 3. VACANCIES. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote a majority of the shareholders of the Corporation at a special meeting called for that purpose. A director elected to fill a vacancy shall be elected for the un-expired term of his predecessor in office.

Section 4. ANNUAL MEETING. The Board of Directors shall meet each year immediately after the annual meeting of the shareholders, at the registered office of the Corporation, or at such other place within or without the State of Idaho as shall be designated by the Board of Directors, for the purpose of organization, election of officers, and consideration of any other business that may properly be brought before the meeting. No notice of any kind to either old or new member of the Board of Directors for such annual meeting shall be necessary.

RECORDED
4

JAN 06 1938

Section 5. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by the President or any two Directors by giving five (5) days notice thereof. Notice of special meetings may be given by letter, telegram or cable at any place within or without the State of Idaho. Notice of any other meeting of the Board of Directors may be waived in writing signed by the person or persons entitled to such notice, whether before or after the time or such meeting, and shall be equivalent to the giving of such notice. Attendance of a Director at such meeting shall constitute a waiver of notice thereof, except where a Director attends a meeting for the express purpose of objecting to the transaction of any businesses, because such meeting is now lawfully convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 6. ACTION OF DIRECTORS WITH A MEETING. Action required to be taken at a meeting of Directors of this Corporation may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Directors. Such consent shall have the same effect as a unanimous vote.

Section 7. QUORUM. A majority of the number of Directors fixed by the Code of By-Laws shall constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting, at which a quorum is present, shall be the act of the Board of Directors.

Section 8. REMOVAL. The entire Board of Directors of any individual Director may be removed from office without assigning any cause at a special meeting called for that purpose by a vote of the shareholders holding a majority of the outstanding shares which elected the Director or Directors so to be removed and which is entitled to vote at an election of directors, but unless the entire Board of Directors is removed, no individual Director shall be removed in case the votes of a sufficient number of shares are cast against the resolution for his removal, which if cumulatively voted at an election of the entire Board would be sufficient to elect one or more Directors. If the notice calling such meeting shall so provide, the vacancy caused by such removal may be filled at such meeting by vote of a majority of the shareholders present and entitled to vote for a Board of Directors. Failure to elect Directors to fill the un-expired term of the Directors so removed shall be deemed to create a vacancy or vacancies in the Board of Directors.

Section 9. LOANS OR TRANSFERS. The Board of Directors shall not have the power to lend money or transfer money between the accounts for the culinary water account, the path association account, and the irrigation water account without the approval of a majority of members. In the event money is loaned between accounts, proper adjustments in billing amounts for the deficient account must be made to provide for repayment and to assure that the deficient account will be self sustaining in the future.

Section 10. INTEREST OF DIRECTORS IN CONTRACTS. Any contract or other transaction between the Corporation and one or more of its Directors, or between the Corporation and any firm of which one or more of its Directors are member or employees, or in which they are interested, or between the Corporation and any corporation or association of which one or more of its Directors are shareholders, members, directors, officers, or employees, or in which they are interested, shall be valid for all purposes, notwithstanding the presence of the such Director or Directors at the meeting of the Board of Directors of the Corporation which acts upon, or in reference to, such contract or transaction, and notwithstanding his or their participation in such action, if the fact of such interest shall be disclosed or known to the Board of Directors present, such interested Director or Directors to be counted in determining whether a quorum is present, but not to be counted in calculating the majority of such quorum necessary to carry such vote. This Section shall not be construed to invalidate any contract or other transactions which would otherwise be valid under the common and statutory law applicable thereto.

Section 11. DUTIES OF MANAGEMENT. The directors are to oversee the operation and management of all three systems of the Corporation which are: a) culinary water, b) path association, and c) irrigation water. They are to appoint or hire those as necessary to read meters, do water testing, do billing and accounting, maintenance, and etc. The directors shall have the latitude to employ personnel outside of the membership if it is deemed prudent and necessary. There shall be a designated water master to be over the water systems. There should be a book of guidelines for the various activities kept by the directors to refer to.

RECORDED
JAN 05 1963

Section 12. COMPENSATION. Directors are to be allowed to receive suitable compensation during their term of service to the corporation. The amount, if any, is to be determined at the annual meeting.

Section 13. GIFTS. The board of directors may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purposes or for any special purposes of the corporation.

Section 14. EXECUTIVE AND OTHER COMMITTEES. The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the Articles of Incorporation of the By-Laws of the corporation shall have and may exercise all the authority of the Board of Directors, except that no such committee shall have authority to (1) approve or recommend to shareholders actions or proposals required by the Corporation Laws of the State of Idaho to be approved by shareholders, (2) designate candidates for the office of Director, for purposes of proxy solicitation or otherwise, or fill vacancies on the Board of Directors or any committee thereof, (3) amend the By-Laws, (4) approve a plan of merger not requiring shareholder approval, (5) reduce earned or capital surplus, (6) authorize or approve the re-acquisition of shares unless pursuant to a general formula or method specified by the Board of Directors, or (7) authorize or approve the issuance of, sale of, or any contract to issue or sell shares.

ARTICLE VII -- THE OFFICERS

Section 1. OFFICERS. The officers of the Corporation shall consist of a President, Vice-President, Secretary, Treasurer, and such other officers and assistant officers and agents as may be deemed necessary by the Board of Directors. At the discretion of the Directors, the office of Assistant Secretary may be created to act for and in the absence of the Corporate Secretary. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. Only the President need be a director and shareholder of the Corporation.

Section 2. VACANCIES. Whenever any vacancies shall occur in any office by death, resignation, increase in the number of offices of the Corporation, or otherwise, the same shall be filled by the Board of Directors, and the officer so elected shall hold office until his successor is chosen and qualified.

Section 3. THE PRESIDENT. The President shall preside at all meetings of shareholders and Directors, discharge all the duties which devolve upon a presiding officer, and perform such other duties as the Code of By-Laws provides or the Board of Directors may prescribe. The President shall have full authority to execute proxies in behalf of the Corporation, to vote stock owned by it in any other corporation, and to execute with the Secretary powers of attorney appointing other corporations, partnerships, or individual the agent of the Corporation, all subject to the provision of the State of Idaho, the Articles of Incorporation of the Corporation, and this Code of By-Laws.

Section 4. THE VICE-PRESIDENT. The Vice-President shall perform all duties incumbent upon the President during the absence or disability of the President, and shall perform such other duties as this Code of By-Laws may require or the Board of Directors may prescribe.

Section 5. THE SECRETARY. The Secretary shall attend all meetings of the shareholders and of the Board of Directors, and shall keep, or cause to be kept in a book provided for that purpose, a true and complete record of the proceedings of such meetings, and shall perform a like duty for all standing committees appointed by the Board of Directors, when required. He shall attend to the giving and serving of all notices of the Corporation, and shall perform such other duties as this Code of By-Laws may require or the Board of Directors may prescribe.

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Section 6. THE TREASURER. The Treasurer shall keep correct and complete records of account, showing accurately at all times, the financial condition of the Corporation. He shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into the possession of the Corporation. He shall immediately deposit all funds of the Corporation coming into his hands in some reliable bank or other depository to be designated by the Board of Directors, and shall keep such bank account in the name of the Corporation. He shall furnish at meetings of the Board of Directors, or whenever requested, a statement of the financial condition of the corporation, and shall perform such other duties as this Code of By-Laws may require or the Board of Directors may prescribe. The Treasurer may be required to furnish bond in such amount as shall be determined by the Board of Directors.

Section 7. DELEGATION OF AUTHORITY. In case of the absence of any officer of the Corporation, of for any other reason that the Board of Directors may deem sufficient, the Board may delegate the powers of duties of such officer to any other office or to any Director or employee of the Corporation for the time being, provided a majority of the entire Board concurs therein.

ARTICLE VIII -- SPECIAL CORPORATE ACTS

Negotiable Instruments, Deeds, Contracts, and Shareholders' Meetings: All checks, drafts, notes, bonds, bills of exchange, and orders for the payment of money of the Corporation; all deeds, mortgages and other written contracts and agreements to which the Corporation may be a party; and all assignments or endorsements of stock certificates, registered bonds, or other securities owned by the Corporation, shall, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by any two (2) of the following officers who are different persons: President, Vice-President, Secretary, or Treasurer. The Board of Directors, may, however, authorize any one of such officers to sign any such instruments for and in behalf of the Corporation, without necessity of counter-signature; and may designate officers or employees of the Corporation, other than those name above, who may, in the name of the Corporation, sign such instruments.

ARTICLE IX -- INDEMNIFICATION OF CORPORATE DIRECTORS, OFFICERS AND AGENTS

Section 1. DEFINITIONS. As used in this Article.

- (a) "Corporate agent" means any person who is or was a Director, officer, employee or agent of the Corporation, or the legal representative of any such Director, officer, employee or agent;
- (b) "Expenses" means reasonable costs, disbursements and counsel fees;
- (c) "Liabilities" means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties;
- (d) "Proceeding" means any pending, threatened, or completed civil, criminal, administrative or arbitral actions, suit or proceeding, and any appeal therein, and any inquiry of investigation which could lead to such action, suit or proceeding.
- (e) "Corporation" shall mean this Corporation and its subsidiaries.

Section 2. PROCEEDINGS NOT BY OR IN THE RIGHT OF THE CORPORATION. The Corporation shall indemnify a Corporate agent against his expenses and liabilities in connection with any proceeding involving the Corporate agent by reason of his being or having been such Corporate agent, other than a proceeding by or in the right of the Association, if

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(a) Such Corporate Agent acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation; and

(b) With respect to any criminal proceedings, such Corporate agent had no reasonable cause to believe his conduct was unlawful.

The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not of itself create a presumption that such Corporate agent did not meet the applicable standards of conduct set forth in paragraph (a) and (b) of this Section.

Section 3. PROCEEDINGS BY OR IN THE RIGHT OF THE CORPORATION. The Corporation shall indemnify an Corporate agent against his expenses in connection with any proceeding by or in the right of the Corporation to procure a judgment in its favor which involves the Corporate agent by reason of his being or having been such Association agent, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation. However, in such proceeding no indemnification shall be provided in respect of any claim, issue or matter as to which such Corporate agent shall have been adjudged to be liable for negligence or misconduct, unless and only to the extent that the Court in which such proceeding was brought shall determine that despite the adjudication of liability, but in view of all circumstances of the case, such Corporate agent is fairly and reasonably entitled to indemnity for such expenses as the Court shall deem proper.

Section 4. CORPORATE AGENT SUCCESSFUL IN PROCEEDING. The Corporation shall indemnify a Corporate agent against expenses to the extent that such Corporate agent has been successful on the merits or otherwise in any proceeding referred to in Sections 2 and 3 of this Article or in defense of any claim, issue or matter therein.

Section 5. PROCEDURE FOR INDEMNIFICATION. Any indemnification under Section 2 of this Article and, unless ordered by a Court, under Section 3 of this Article, may be by the Corporation only as authorized in a specific case upon a determination that indemnification is proper in the circumstances because the Corporate agent met the applicable standard of conduct set fourth in such Section 2 or such Section 3. Such determination shall be made

(a) By the Board of Directors acting by a quorum consisting of Directors who were not parties to the proceeding; or

(b) If such a quorum is not obtainable, or, even if obtainable and a quorum of the disinterested Directors so directs, by independent legal counsel in a written opinion; or

(c) By the members having general voting rights at a general meeting of the members.

Section 6. EXPENSES PAYABLE IN ADVANCE. Expenses incurred by a Corporate agent in connection with a proceeding may be paid by the Corporation in advance of the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the Corporate agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified as provided in this Article.

Section 7. RIGHTS NOT EXCLUDED. The indemnification provided by this Article shall not exclude any other rights to which a Corporate agent may be entitled under the Articles of Incorporation, the By-Laws or any agreement, vote of members or otherwise.

ARTICLE X -- AMENDMENTS

The power to alter, amend, or repeal the By-Laws or to adopt a new Code of By-Laws is conferred upon the Directors, as well as upon the shareholders, to be exercised by such vote of the Directors or of the allotted shares, as the case may be; provided, however, not less than a majority thereof as may be fixed by the By-Laws. The Code of By-Laws may contain any provisions for the regulation and management of the affairs of the Corporation not inconsistent with the Act or the Articles of Incorporation.

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WHEREFORE, We, the undersigned, being all of the members of the Board of Directors of Equestrian Estates Water Corporation, do hereby certify that the foregoing are the true, full and correct By-Laws of said Corporation, duly and regularly adopted by a unanimous vote of the owners of all of the issued shares of stock of Equestrian Estates Water Corporation, at the meeting of the shareholder of said Corporation held the _____ day of _____, 199____, at which meeting all of said shareholders were present in person or by proxy and voted for the adoption of said By-Laws.

(name), President

(name), Secretary

(name), Treasurer

(name), Director

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RESTRICTIVE COVENANTS
FOR
EQUESTRIAN ESTATES
BANNOCK COUNTY, IDAHO

OCT 15 1997

The undersigned, being the owner and developer, holder of the equitable interest of EQUESTRIAN ESTATES, sets forth these restrictive covenants to run with the land.

WHEREAS, the owners desire to subdivide said property and sell lots, the building sites thereon are subject to certain restrictions; and,

WHEREAS, the owners, by these Restrictive Covenants, intend and desire to insure the above described real property for attractive and residential purposes, to prevent nuisances and to prevent the impairment of the attractiveness, to maintain the desired tone of the residential community, and to insure subsequent property owners the full benefit and enjoyment of the attractive residential property and to prevent any uses that may tend to diminish the value of pleasurable enjoyment of the above described property.

NOW THEREFORE, the Undersigned, fee owners of the following described land do hereby make the following declarations as to limitations, restrictions and uses to which said property may be put, and hereby specify that such declarations should constitute covenants to run with all the lands, as provided by law, and shall be binding on all persons and all parties claiming under them:

I.

PROPERTY DESCRIPTION

E 1/2 of the NE 1/4 of section 31, T. 5 S., R. 34 E., B.M.

all in what is known as EQUESTRIAN ESTATES and its additions, BANNOCK County, Idaho.

II.

LAND USE AND BUILDING TYPE

1. The property shall be restricted exclusively to residential purposes and shall not be used for any type of commercial, retail sales, home services or manufacturing. No residential building shall be permitted in this subdivision other than one single family dwelling, having a ground floor area of the main structure (not including one-story open porches and garage), of not less than 1500 square feet for a one-story dwelling and of not less than 1200 square feet on the main floor of a ~~full two-story~~ dwelling with a minimum of 2000 square feet excluding basement, open porches, and garage. ~~For~~ split level homes, the two upper levels must collectively contain at least 1400 square feet excluding basement, open porches, and garage. All dwellings shall have an attached garage of at least 30 feet in width with sufficient size to hold a minimum of 3 cars, pickups, or similar vehicles.
2. All dwelling units shall be permanently attached by foundation to the property and no manufactured homes (also known as mobile or trailer homes) shall be allowed upon the property, except travel trailers or recreational vehicles which may be stored upon the premises if such recreational vehicles or travel trailers shall be owned or rented by the owner of any lot or acreage. No recreational vehicles or travel trailer shall be used for living quarters.
3. Any other building accessories, which are customarily accessory to houses or single family dwellings, including a storage building, recreation room, dark room, studio, greenhouse, private stable, barn or corral may be included providing any such accessory building does not detract from the general over-all appearance of the property. Such accessory building or buildings shall conform to the general architectural plan of the dwelling unit. All storage buildings and barns or stables shall be of new construction and new materials. Any barns, corrals, greenhouses or storage buildings accessory to the dwelling unit shall meet all of the requirements as to location and such other requirements as set forth in these restrictions. All buildings shall be subject to the approval of the Architectural Control Committee.

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4. All homes or buildings erected upon the premises shall be of good construction and shall have a pleasant appearance. The single family residence may, at the discretion of the owner, have an apartment, to be contained within the dwelling using, but such apartment shall not be a structure separate and apart from the family dwelling unit. No accessory building shall be used for sleeping or living purposes. No dwelling shall be erected that has the appearance of a side-by-side duplex.
5. Each builder/homeowner will design on-site lot grading to facilitate protection of his home from run-off. Lot grading should be completed in accordance with or similar to those designs provided by HUD-FHA in their manuals which includes provisions for any runoff waters to drain along each side lot line and along back lot lines. Lot grading, particularly in front of lot next to roadway, should be done to hold each lot's runoff water as much as possible. Borrow pits along public roadways are not to be filled in or built up except as needed for driveways. Any culvert or other drainage device under driveways must be approved through the architectural committee. Lot grading is to include sloping the yard away from the home or other structures in all directions eliminating the possibility of runoff waters running to the foundation(s).
6. No dwelling shall be occupied until the exterior is completely finished and the main level interior is reasonably finished, except in certain emergencies to be determined by the Architectural Control Committee.
7. All dwelling owners shall plant and maintain a lawn area of at least 3,000 square feet surrounding the dwelling and not less than two deciduous trees in the front yard with a caliper (diameter of main trunk) of not less than 1 1/2 inches and not less than ten feet tall. Required deciduous trees must be one or any combination of the following varieties: Maple, Linden, Ash, Birch, or Locust. All yards shall be landscaped in a professional-like manner and appearance. Landscaping and planting of required trees shall commence not later than sixty (60) days from occupancy (weather permitting).
8. Residents shall park or store any recreational vehicles, trailers, trucks, snowmobiles, boats, campers, etc. on their own property. No commercial trucks and/or trailers shall be parked or located on or along any public roadway for more than 3 hours.
9. No inoperable or non-working (junk) cars, motorcycles, snowmobiles, recreational vehicles, trailers, etc. are to be allowed in the subdivision unless they are enclosed in an area such as a barn, shop, or garage. Garage and shop doors shall be kept closed except for ingress and egress of the garage.
10. No obtrusive exterior structures such as, radio or ham radio antenna, or other communication tower or fixture shall be allowed in this subdivision in excess of 40 feet in height.

III.

ARCHITECTURAL CONTROL

1. No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the locations of the structure have been approved by the Architectural Control Committee as to quality of workmanship and the materials, harmony of the external design with existing structure and as to the location with respect to topography and finish grade elevations.
2. No fence of any kind shall be used or erected across the front of any lot, except for white polyvinyl or chain link fence not to exceed four feet in height. Any other fences shall not exceed six feet in height and are to be made from good quality materials and constructed in a manner so as not to detract from the aesthetics of the subdivision. Any and all fences shall be subject to the approval of the Architectural Control Committee. Approval shall be as provided in paragraph X. of these restrictions.

IV.

BUILDING LOCATION

1. No building shall be located on any lot nearer than 40 feet to the front lot line or nearer than 40 feet to any side street line. No building shall be located nearer than 20 feet to an interior lot line.

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2. For the purposes of this Agreement, eaves, steps, and open porches shall not be considered part of the building, provided however, that this shall not be constructed to permit any portion of a building on a lot to encroach upon another lot.

V.

ONE DWELLING PER LOT

1. No more than one dwelling shall be erected on any one lot and all such dwellings shall be limited to not more than two families.
2. For purposes of this restrictions each lot shall be approximately 1.0 acre or larger and lot or lots shall not be subdivided nor re-divided nor split into smaller lots.

VI.

EASEMENTS

Easements for installations and maintenance of utilities and drainage facilities shall be preserved from any and all lots as shown on the recorded plat thereof. Within the bounds of such easements, no structures, planting or other materials will be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may obstruct or retard the use and access of such easement.

VII.

NO OFFENSIVE ACTIVITY OR BUSINESS USE

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoying nuisance to the neighborhood.

VIII.

TEMPORARY STRUCTURES

No structure of a temporary character, basement, tent, trailer, shack, mobile home, garage, barn or other outbuilding shall be used or placed upon any lot at any time as a residence, temporarily or permanently.

IX.

LIVESTOCK AND POULTRY

1. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except as follows:
2. Dogs, cats or other household pets may be kept provided that the are not kept, bred or maintained for any commercial purposes. The number of dogs, cats or other household pets kept on such premises shall not exceed four (4) in number of any one species. For the purposes of this restriction, any kind of snake shall not be considered a household pet and shall not be kept upon the premises as a pet.
3. No commercial breeding of any household pets, horses, cattle, sheep, water fowl or poultry shall be permitted nor shall a feed lot operation be permitted on any lot. Dogs are to be controlled and kept so as not to disturb the neighborhood or be a nuisance and are to remain on property owners lot unless accompanied by a person and supervised.
4. For each one acre there shall not be more than two (2) head of horses, cattle, sheep or exotics. Exotics shall include, but not be limited to, llamas, camelids, or large birds such as ostriches or emus, etc. Goats, pigs or swine, including pot bellied pigs, shall not be permitted. However, combinations of horses, cattle, sheep, or exotics may be kept providing that the owner of any lot shall not harbor, keep or maintain any more than four (4) animals on any one acre lot. One additional animal may be permitted for each one-quarter acre of lot size in excess of one acre.

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5. The owner of each lot may keep domestic water fowl or poultry not to exceed ten (10) in number, per acre.
6. All accumulations of animal residue or manure shall be removed from the premises at least twice each year and shall be disposed of in accordance with the regulations of Bannock County, Idaho, but shall not be allowed to accumulate. Any accumulations not removed by the owners of any lot will require enforcement with appropriate legal action being taken by the Architectural Control Committee. The owners of any such lot shall cause chemical or mechanical means to be used for the control of flies, gnats, mosquitoes or other insects, rodents or pests.

X.

PROCEDURE

1. The Committee's approval or disapproval as required in these covenants shall be in writing.
2. In the event that the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or if suit to enjoin construction has not been commenced prior to the completion thereof, approval will be not required and the related covenants shall be deemed to have been fully complied with.

XI.

ARCHITECTURAL CONTROL COMMITTEE

1. Said Architectural Control Committee herein referred to shall be composed of three (3) individuals appointed by the property owners.
2. Said Architectural Control Committee so appointed shall have all the powers, rights and duties as herein specifically set forth:
 - a) Any action by said Committee may be taken by a majority thereof and the members of said Committee may act without a meeting.
 - b) Said individuals, their successors or assigns, shall have the right at any time to remove any member of said Committee so appointed by each, and to fill any vacancy caused by such removals or by the death, resignation or any other inability to act of any member so appointed.
3. At any time after two-thirds (2/3) of the lots have been sold by the developer, then the recorded owners of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the Committee, or to withdraw from the Committee, or to restore to it any of its power or duties.
4. The Architectural Control Committee shall determine what action must be taken to enforce any of the provisions of these restrictive covenants.

XII.

SEWAGE DISPOSAL

1. As of the date of filing of the plat, central sewage connections are not reasonably available. Therefore all lots shall have a subsurface sanitary sewer systems installed by the buyer, as approved by the Southeast District Health office, and pursuant to conditions set forth on the plat or its attachment.
2. All sewer connections shall exit the side of the dwelling to allow for possible future connections to a central sewer system should one become available.
3. To allow proper function of the drain fields for the subsurface sanitary sewage system flood irrigation shall not be allowed over the drain fields. Irrigation of the lots shall be by sprinklers only, with a system approved by the Architectural Control Committee.
4. No sewer lines or subsurface sewage system is to be installed within 100 feet of community wells.

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XIII.

COMMUNITY WATER SYSTEM

1. All of the lots in the subdivision known as Equestrian Estates will obtain water for culinary purposes from a Community Water System to be installed by the subdivider. No property owner shall be permitted to drill an individual well on the property.
2. There shall be a culinary and irrigation water system. Each lot shall become a part of the central water delivery system for water delivery.

XIV.

WATER USERS CORPORATION

At a time to be determined by the developer, but not later than the date that dwellings are constructed and occupied on 50% of the 35 lots within the subdivision, a Water Users Corporation will be formed and the community water system and maintenance and management of the community water system will be turned over to said Water Users Corporation. Until that time, the developer shall be responsible for the management and maintenance of said systems. Water use, rights and restrictions are as set forth in Equestrian Estates, Inc., its Articles, by-laws and resolutions.

XV.

RIDING / WALKING PATH

Each lot owner will have an undivided interest in the riding / walking path as set forth on the plat. The path will belong to the Equestrian Estates, Inc. All owners and those residing on said lots are entitled to use the path. Any property owners outside of Equestrian Estates whose property is adjacent to the north and south property lines shall be entitled to use the path provided they join the Equestrian Estates Path Association and pay their share of annual maintenance. No motorized vehicles of any kind shall be permitted on said path, except as deemed necessary by the Association for maintenance and upkeep. No reckless racing or other unsafe activities are to be allowed on said path. All maintenance and supervision of the path will be done by Equestrian Estates, Inc. through its Articles, by-laws and resolutions.

XVI.

TERM

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of ten (10) years from the date that these covenants are recorded after which time, said covenants shall be automatically extended for a successive period of ten (10) years unless an instrument signed by the majority of the owners of the lots agreeing to change said covenants as recorded.

XVII.

ENFORCEMENT

Enforcement shall be by proceedings at law by the owners in fee simple of any lot and/or the Bannock County's option, or other entity having active jurisdiction.

XVIII.

SEVERABILITY

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

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SIGNS

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

XX.

GARBAGE AND REFUSE DISPOSAL

1. No lot shall be used or maintained as a dumping ground. Rubbish, trash, garbage or other waste shall not be kept except in sanitary containers. All sanitary containers, incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be kept on roadways, driveways, or in front of any dwelling, except for times when trash or garbage is to be collected. All sanitary containers or similar storage containers shall be removed in a timely manner from roadways, driveways and from the front of any dwelling after garbage or trash has been picked up.
2. All lot owners shall be responsible for limiting and controlling weeds and noxious weeds. Weed growths shall not be entitled to remain unabated. Noxious weeds as defined by the County Extensions Office shall be sprayed or abated on not less than an annual basis. Failure to abate noxious weeds may render the individual liable for appropriate control including spraying.

XXI.

SIGHT DISTANCE AT INTERSECTIONS

1. No fence, wall, hedge, or shrub planting which obscures sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street, property lines, and a line connecting them at points twenty-five feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended.
 - a) The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement.
 - b) No trees shall be permitted to remain within such distance of such intersections unless foliage line is maintained at sufficient height to prevent obstructions of such sight lines.

XXII.

COMPLETION TIME

1. Construction on the residential structure shall begin within one year from date of closing or, alternatively the property shall be cultivated and planted into pasture. All pastures are to be irrigated and maintained so as not to detract from the aesthetics of the subdivision.
2. After commencement of the construction of any building, outbuilding, private garages, structures, fences or wall permitted hereby to be constructed, the same shall be processed to completion with reasonable diligence and according to plans and specifications approved by the Architectural Control Committee as herein set forth.
 - a) No residence shall be in any manner occupied until made to comply with the conditions herein set forth and all requirements hereof thereunto appertaining.

XXIII.

BREACH OF CONDITIONS

It is expressly provided that a breach of any of the foregoing conditions shall not defeat or render invalid any mortgage or deed of trust made in good faith and for value as to said premises or any part thereof, but said conditions shall be binding upon and effective against any owner of said premises whose title thereof was acquired by foreclosure, trustee's sale, or otherwise as to any breach occurring after acquirement of title.

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XXIV.

AMENDMENT

It is understood that these restrictive covenants may be amended from time to time by written consent of two-thirds (2/3) of the owners of property subject to these restrictions provided, however, that this provision shall have no application so long as the grantor, Equestrian Estates, a.k.a. Heritage Development shall be the owner of fifty percent (50%) of the subject property.

XXIV

SAVING CLAUSE

The invalidity of any one of these covenants by judgment or court order or by any other method, shall in no way affect any of the other provisions which shall remain in full force and effect.

XXV.

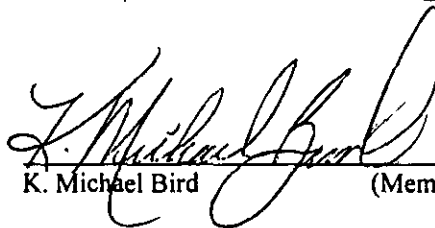
ANNEXATION BY MUNICIPALITY

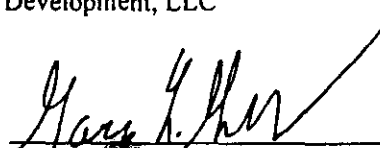
In the event the premises herein described are annexed by the City of Chubbuck, or other municipality said land shall still have agricultural rights under the ordinances of such municipality together with these restrictions.

IN WITNESS WHEREOF, the owners have hereunto caused these restrictive covenants to be duly executed on

the 14th day of February, 1997.

EQUESTRIAN ESTATES SUBDIVISION
Heritage Development, LLC

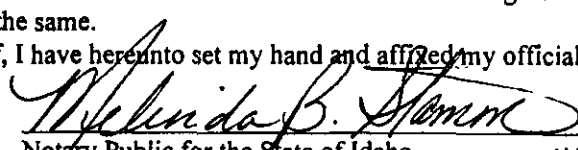

K. Michael Bird (Member)


Gary L. Gibson (Member)

STATE OF IDAHO)
ss.)
COUNTY OF BANNOCK)

On this 14th day of February, in the year 1997, before me, a Notary Public in and for said State, personally appeared K. Michael Bird and Gary L. Gibson known to me to be members of Heritage Development, LLC who executed the instrument on behalf of Heritage Development, LLC and acknowledged to me that they executed the same.

In Witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for the State of Idaho
Residing at:
Comm. Expires:

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NO
RECORDED AT REQUEST OF
SHURLIFF ENGINEERING
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NOTARY SEAL

RECORDED BOOK NO. 483
BANNOCK COUNTY IDAHO
LARRY W. CHAN RECORDER
FEE 21.00 DEPUTY MS

JAN 16 1997

MEMORANDUM

To: File 29-08123
From: L. Glen Saxton *WJ*
RE: INQUIRY - LAPSE NOTICE
Date: September 9, 1997

On this date, Mike Bird (234-1820) called me and advised that he filed the proof of beneficial use shortly after receiving the proof due notice in July 1997.

I pulled the water right file, checked it and called him back advising that the proof was not in the file. I also asked him to determine from his records, if possible, the receipt number for the license examination fee which would have been submitted with the proof. He said he would check and advise me.

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WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

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

September 8, 1997

HERITAGE DEVELOPMENT
PO BOX 2684
POCATELLO ID 832042684

LAPSE NOTICE

RE: PERMIT NO. 29-08173

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated June 30, 1997. No further construction or additional development is authorized under this permit unless it is reinstated.

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

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

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING

I hereby certify that on 9-8-97
a copy/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

MICROFILMED
JAN 06 1998

[Signature]

June 30, 1997

HERITAGE DEVELOPMENT
PO BOX 2684
POCATELLO ID 832042684

PROOF DUE NOTICE

RE: PERMIT NO. 29-08173

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before September 1, 1997.

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

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

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

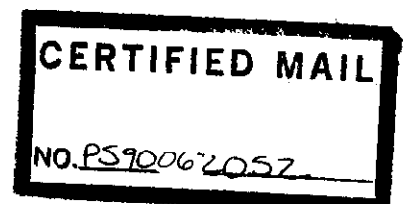
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

JAN 06 1998





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

August 19, 1996

PHILIP E. BATT
GOVERNOR

HERITAGE DEVELOPMENT
PO BOX 2684
POCATELLO ID 83204-2684

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 29-08173

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "Conditions of Approval and Remarks" listing on the permit.

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

If a well has not already been constructed you are required to obtain a "drilling permit" from the department. The right to drill a well is not a part of this permit to appropriate water.

Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired a water right or have changed your mailing address PRIOR TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address AFTER July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department to obtain the proper reporting form.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:ph

Enclosures

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SEP 11 1996

RECEIVED

JUL 15 1996

Department of Water Resources
Eastern RegionThe Idaho
Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due

\$51.60

Account Number 100564		Identification NOTICE OF APPLICATION FOR WATER RIGHT 29-08172 and 29-08173	
Ordered By Rita Bodell	P.O. Number	Rate NT	Run Dates June 20 & 27, 1996
Rita Bodell IDAHO DEPARTMENT OF WATER RESOURCES Eastern Region 900 N. Skyline Drive Idaho Falls, Idaho 83402-1718		Estimated Inches	Real Inches
		# Affidavits 1	Legal Number 5305

LEGAL NOTICE
NOTICE OF APPLICATION
FOR WATER RIGHT

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

29-08172
MEHLHAFF, JOHN CLARK
1424 HIGH ST
AUBURN, CA 95603
Source: CHICKEN SOUP SPRINGS
Tributary: PORTNEUF RIVER
Diversion Pt: LOT 6 (SWSW) Sec 22
T09S R38E in BANNOCK
County.
Use: COMMERCIAL (1.000 CFS)
Total Diversion: (1.000 CFS)
Date Filed: 5/28/1996
In: BANNOCK County
T09S R38E S21 Lot 2(SWSE)
Lot 1(SESE)

29-08173
HERITAGE DEVELOPMENT
PO BOX 2684
POCATELLO, ID 83204
Source: GROUNDWATER
Diversion Pt: SENE Sec 31 T05S R34E in
BANNOCK County.
Use: DOMESTIC (0.270 CFS)
Total Diversion: (0.270 CFS)
Date Filed: 6/5/1996
In: BANNOCK County
T05S R31E S31 NENE SENE

The permit(s) will be subject to all prior
water rights. Protests must be filed with the
applicant and the Director, Dept. of Water
Resources, along with a \$25.00 filing fee,
Eastern Region, 900 N. Skyline, Idaho Falls,
Idaho 83402 on or before JULY 8, 1996.

KARL J. DREHER, Director
Pub. June 20 & 27, 1996 5305

LINDA PORTER

being duly
sworn, deposes and says: That she is the Principal Clerk of The
Idaho Statesman, a daily newspaper printed and published at Boise,
Ada County, State of Idaho, and having a general circulation therein
and which said newspaper has been continuously and uninterruptedly
published in said County during a period of twelve consecutive
months prior to the first publication of the notice, a copy of which is
attached hereto; that said notice was published in The Idaho
Statesman in conformity with Section 60-108, Idaho Code as
amended, for TWO

☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of JUNE 20, 1996

and ending with the issue of JUNE 27, 1996

Linda Porter

STATE OF IDAHO)

SS.

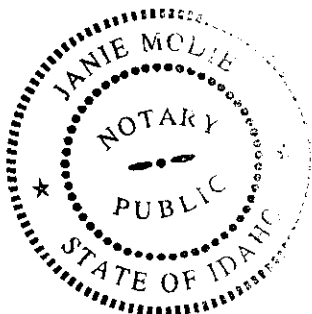
COUNTY OF ADA)

On this 27th day of JUNE in the year of
1996

before me, a Notary Public, personally appeared
LINDA PORTER, known or identified to
me to be the person whose name subscribed to the within instrument,
and being by me first duly sworn, declared that the statements therein
are true, and acknowledged to me that she executed the same.

Notary Public for Idaho
Residing at Boise, Idaho

My commission expires: 5/97



SEP 11 1996

29-08173

HERITAGE DEVELOPMENT
PO BOX 2684
POCATELLO, ID 83204

Source: GROUNDWATER

Diversion Pt: SENE Sec 31 T 05S R 34E in BANNOCK County.

Use: DOMESTIC (0.270 CFS)
Total Diversion: (0.270 CFS)

Date Filed: 6/ 5/1996

In: BANNOCK County
T05S R31E S31 NENE SENE



SEP 11 1996

The permit(s) will be subject to all prior water rights. Protests must be filed with the applicant and the Director, Dept. of Water Resources, along with a \$25.00 filing fee, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before JULY 8, 1996.

Published: 6/20/1996 & 6/27/1996

KARL J. DREHER, Director

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SEP 11 1996

RECEIVED
JUN 28 1996
Department of Water Resources
Eastern Region

June 26, 1996

Harold Jones
Idaho Dept. of Water Resources
900 N. Skyline, Suite A
Idaho Falls, ID 83402

Re: Equestrian Estates.

Dear Harold:

As per your request, enclosed is a copy of a portion of the Bannock County Planning and Development Council Meeting Minutes of May 28, 1996. Business Item #6 addresses the preliminary plat of Equestrian Estates.

If you need any further information or have any questions, please contact me at 234-4663.

Thank you for your assistance in this matter.

Sincerely,



Jay L. Christensen

JLC/lt

enclosure

MAILED

SEP 11 1996



BANNOCK COUNTY

OFFICE OF PLANNING & DEVELOPMENT SERVICES

Courthouse Annex • 716 E. Center Street • P.O. Box 4777
Pocatello, Idaho 83205

(208) 236-7230 • Fax: (208) 236-7235

BUILDING
ENGINEERING
PLANNING AND ZONING

RECEIVED

JUN 28 1996

Department of Water Resources
Eastern Region

BANNOCK COUNTY PLANNING AND DEVELOPMENT COUNCIL MEETING MINUTES

May 28, 1996

These minutes are a summary of the PLANNING AND DEVELOPMENT COUNCIL meeting. A tape recording of the entire meeting is available in the Planning and Development Services Office, Bannock County Courthouse Annex, 130 N. 6th Ave., Pocatello, Idaho, for a period of six months.

The regular meeting of the BANNOCK COUNTY PLANNING AND DEVELOPMENT COUNCIL was held May 28, 1996, AT 6:30 P.M. in the Bannock County Courthouse, Center and 5th Avenue, Pocatello, in Room 214.

BANNOCK COUNTY STAFF PRESENT: Terry Bailey, Engineer; Lori Bergfeld, Planner; and Barbara Anderson, Secretary.

Kay Merriam called the meeting to order at 6:30 p.m.

AGENDA ITEM A: ROLL CALL AND DISCLOSURE - CONFLICT OF INTEREST; Council members present: Bob Bergendorf, Floyd Johnson, Kay Merriam, Bill Orr, and Dacia Soulliere. No Conflict of Interest.

AGENDA ITEM B: APPROVAL OF MINUTES: Regular meeting of March 26, 1996. Kay Merriam asked that her name be excluded as she was not present. A page was excluded from the minutes and several unidentified speakers were identified. Regular Meeting of April 23, 1996. Corrections were noted. A motion was made by **Soulliere** to accept the minutes as amended. The motion was seconded by **Bergendorf**. The motion passed by acclamation.

PUBLIC HEARING ITEM #1: A CONTINUATION OF CONDITIONAL USE PERMIT TO OPERATE A GRAVEL PIT AND CONSTRUCTION BUSINESS SITE WITH RELATED ACTIVITIES. Applicant Dwight Jensen. **Merriam** advised this was a continuation from last months meeting where additional information was requested for a decision including:

1. Environmental section which would show drainage and runoff, protection of the river, aquifer, wild life habitat, weed control, planting berms, windbreaks and irrigation. Merriam reviewed the hearing process.

2. Address health hazards.

SEP 11 1996

Merriam stated 1/10 the of the houses in Johnny Creek are accessible.

Bailey stated they had met the conditions for fire hydrants, and snow removal easements and utilities and access road easement.

Soulliere stated no lots shall access Portneuf Road and reviewed restrictions.

Merriam continued to review the Tentative Conclusions of Law and the Goals.

Orr moved to accept Sterling Ridge Estates, that it does not violate the standards found in section D-404 of 1984 Interim Bannock County Land Use Ordinance. **Soulliere** seconded the motion which passed unanimously.

BUSINESS ITEM #6 - Preliminary Plat - Equestrian Estates

Merriam reviewed the staff report wherein the application for preliminary plat by American Heritage, Engineer Shurtliff Engineering was to be considered including staff recommendations. The Staff Analysis was read into record along with the Tentative Findings of Fact.

Developer discussed changes made since the preliminary master plan, changing access to a 10 acre lot on the south side, adding lots which made it a better plan, shifting the road down to include the 10 acre lot. Twenty foot paths have been added to be maintained by the association. Plan to have a pressurized irrigation system, water on one side and irrigations water on the other side.

Bailey advised the only requirement he would have was that the irrigation system not have hose bibs that are compatible with the culinary system because people will hook their culinary water to the irrigation system which has much higher pressure, which could cause contamination. The health department regulations specified a different hose connection for irrigation versus culinary.

Developer stated his only comment was that the wells would not be developed to Chubbuck City standards, but to per Idaho Public Drinking Water standards.

Bergfeld stated the system should be compatible with Chubbuck so if they ever hook it up.

Developer stated they would put 6" diameter pipes in.

Merriam suggested they just say compatible, not designed to the standards.

Developer advised you could put the pipe size but not the wells.

SEP 11 1996

Chubbuck uses the same standards, Idaho Public Drinking Standards, but the municipality looks to get more water out of the ground.

Bergfeld stated they wanted the water system compatible, not the wells, and then we want the wells to be standard.

Bailey thought the water systems should be compatible so when Chubbuck annexes they have a system in place that is going to last without digging up anything.

Developer stated they will put 6" water mains in.

Bergfeld agreed so the delivery system will be compatible with Chubbuck.

Bailey advised smaller water companies may not be run well and don't seem to have the knowledge or financing to do proper testing and repairs. Bigger cities have a way to test the water for organics and know how to make repairs.

Jay Christensen 15170 W Lacey Road, advised the plat is the same other than the 10 acres, which has been incorporated into a 60 acre subdivision, rather than a 50 acre subdivision, so the lot sizes are a little bit larger and lay out a little more adaptable to acreage type interest. Lot sizes vary from 1 1/2 to 2.3 acres for a good mix for different interest. The vision and plan for the path and water system would be a corporation would be set up as a separate association having the power to levy assessments against each lot for the maintenance and the upkeep of the culinary water system and the underground irrigation system which would be two separate lines, as well as the maintenance and upkeep of the riding path which would be deeded to the corporation so that they own and control it and assess each lot owner their prorated share of maintenance on it. One other item being planned is to install an activated carbon system to filter the water for culinary use so that if there is contamination in the water the filter is in place for use at that time. He advised Idaho Power has 34.5 power out their which is hotter than 12.5. There is a problem with burying it underground due to the tremendous amount of insulation which would be required, so overhead primaries will be run 150' back behind the homes, no power lines will be visible out in front for a nice aesthetically pleasing look. The lines are coming off the Siphon Road feeder.

Merriam advised underground lines look much better.

Christensen stated the drops will be underground.

Merriam stated one the goals of the comp plan is to provide a mix of housing and asked if the prices of the houses would be all pretty much on an even keel or will there be some variety.

SEP 11 1996

Christensen advised there would be a variety keeping it affordable but also offering area for someone who wishes to develop an estate type setting and not feel they have over built in the area.

Bergfeld asked if their restrictions address manufactured home.

Developer stated it was the intent to have site built homes but the Idaho Legislature is coming out making it tough to restrict manufactured housing, so they will have some requirements such as breaker road accents, certain pitch lines on the roof, so it would probably be difficult for manufactured homes to meet those requirements. There are size requirements and an architectural review committee to review the homes but square footage would not be one of the criteria they judge by.

Bergfeld had asked for comments from the City of Chubbuck Fire Department. They sent her a copy of the fire code which included a map with red dots which she was unsure what they meant. Fire protection was discussed, the plan meeting the requirements except the fire tank. Water, sewer systems, and District Health approval was discussed.

Merriam reviewed the goals.

Bergendorf moved to approve the preliminary plat of Equestrian Estates which will not violate the standards found in section D404 and the 1984 Interim Bannock County Land Use Ordinance provided that the recommended seven conditions in the staff report are met. **Orr** seconded the motion.

Johnson asked how the developer proposed to progress, if the first item of business was to drill a well?

Developer stated they would phase the construction and the plats so they don't have to bond for the lots to be sold a couple of years down the line. The water lines are dead ended.

Merriam asked for a roll call vote which passed unanimously.

Meeting adjourned at 10:55 p.m.

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SEP 11 1996



IDAHO DEPARTMENT
OF HEALTH AND WELFARE
DIVISION OF
ENVIRONMENTAL QUALITY

224 South Arthur, Pocatello, ID 83204-3202, (208) 236-6160

Philip E. Batt, Governor

June 21, 1996

Mr. Harold Jones
IDWR
900 North Skyline Dr.
Idaho Falls, ID 83402-1718

RECEIVED
JUN 24 1996
Department of Water Resources
Eastern District Office

RE: Water Rights Application 29-08173

Dear Mr. Jones:

Thank you for the opportunity to review the water rights application for the Heritage Development Subdivision. The proposed subdivision is requesting water rights for two (2) wells to be used for domestic purposes. The wells are to be located in the SE 1/4 of Section 31, Township 5 South, Range 34 East, Bannock County, Idaho.

The Division has no objection to the proposed water appropriation.

Should you have any questions or comments, please feel free to call.

Sincerely,

Blaine Drewes

Blaine Drewes
Water Quality Science Officer

route: Henry Moran, SEIRO.

RECEIVED

SEP 11 1996



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 14, 1996

DEQ-IDHW
224 S ARTHUR
POCATELLO ID 83204

RE: Application No. 29-08173

Dear Sir:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is July 8, 1996, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

Harold W. Jones
Harold W. Jones v
Water Right Supervisor

HWJ/rb
enc.

SEP 11 1996



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 17, 1996

HERITAGE DEVELOPMENT
PO BOX 2684
POCATELLO ID 83204

RE: Notice of Application for Permit: 29-08173

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the Idaho State Journal on June 20 & 27, 1996. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the applications and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ/rb

SEP 11 1996



RECEIVED
JUN 05 1996
Department of Water Resources
Eastern Region

June 3, 1996

Harold Jones
Idaho Dept. of Water Resources
900 N. Skyline, Suite A
Idaho Falls, ID 83402

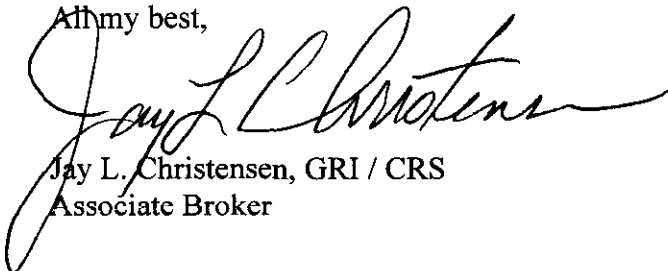
Dear Harold:

Enclosed are the Application for Permit from Heritage Development and 2 maps of the project. Also enclosed is their check #4745 in the amount of \$100.

I am the agent for Heritage Development. If you have any questions or concerns regarding this information you may contact me at 234-4663.

Thank you for your assistance in this matter.

Ally my best,



Jay L. Christensen, GRI / CRS
Associate Broker

JLC/lt