

11 4092

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Bear Lake East, Inc.

(Name of Claimant)

3735 North 900 West Ogden, UT 84404

(Mailing Address)

(Zip Code)

Telephone No. (801) 782-9775

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) July 1, 1961

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Groundwater tributary to _____

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>2.8 cfs</u>	Use <u>Domestic</u>	Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	<u>2.8 cfs</u>	Use _____	Period of Use From _____	To _____

- (4) 2.8 cfs TOTAL QUANTITY USED.

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

Lot 3 ¼, Sec. 12 Twp. 16S Rge. 44E 3.M., County of Bear Lake

Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. 12" diameter well, 220 ft. deep, 15 H.P. submersed pump/ motor - pressure system and buried waterline to homesites.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
16S	44E	12						Lot 3											

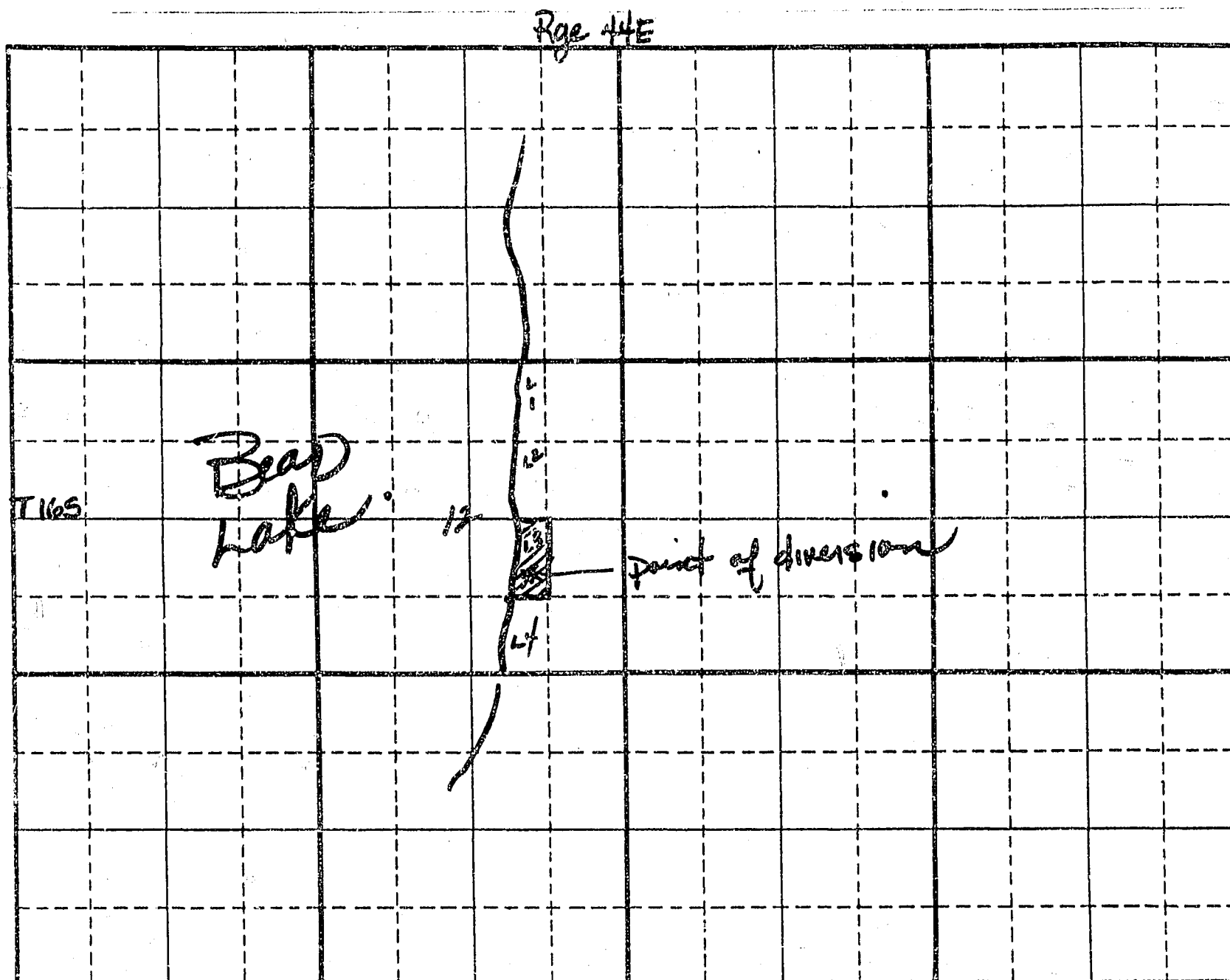
No. of acres _____

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: domestic use in a 70 lot summer home subdivision on the East side of Bear Lake, formally known as Bear Lake Sands #1

NOTE: Include here the type and number of stock watered: _____

- (7) If you are claiming water as a member of an organization, list name of organization: Bear Lake East, Inc.

(8) Remarks _____



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

State of Idaho)
County of Bonneville) ss.

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

Sworn to before me this 29th day of April, 1980.

James R. Taylor
(Claimant)

Charles W. Wray
Notary Public
Residing at Idaho Falls, Id.

My commission expires 6/15/81

FOR DEPARTMENT USE ONLY

Received by JD Date 4/29/1980 Exception filed by: _____ Date _____
Prelim. check by AKK Date 4-29-1980 Forwarded to claimant by: _____
\$20.00 fee received by JD Date 4/29/80 13904
Published in The News Examiner
Dates 5/8 & 5/15/80

Nº 1425

RECEIVED

JUN 3

Department of W.
Eastern Dis

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Bear Lake } ss.

James W. Thompson
being duly sworn,

deposes and says:

That he is the publisher of THE NEWS-EXAMINER, a weekly newspaper published at Montpelier, in the County of Bear Lake and State of Idaho; and said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Montpelier; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

May 8, 1980 and ending
with the issue of May 15, 1980

Fees, \$40.75

Subscribed and sworn to before me this 20 day
of May, 1980

Nanda Thompson

Notary Public, Residing at Montpelier, Idaho

My Commission Expires March 11, 83

Public Notices

NOTICE OF CLAIMS TO
WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

(11-4091) OK
HIRSCHI, LA VALLE E. & -or NITA C.
RT. 1, AFTON, WY 83110
Source: PREUSS CREEK tributary to
THOMAS FORK CREEK
Priority Date: 07-07-1881

Amount: 5.00 CFS
Diversion Point: SENE SWNE Sec 09 T
12S R 46E, BEAR LAKE Co.
Use: IRRIGATION (4.00 CFS) from
04-15 to 10-15

STOCKWATER (1.00 CFS) from
10-01 to 05-20

Place of Use: NESW NWSW SESW
NWSE SWSE Sec 10 T 12S R 46E FOR
158 ACRES

Diversion Means: DITCHES & HEAD-
GATES.

(11-4092) OK
BEAR LAKE EAST, INC.
3735 NORTH 900 WEST, OGDEN, UT
84404

Source: GROUNDWATER

Priority Date: 07-01-1961

Amount: 2.80 CFS

Diversion Point: LOT 03 Sec 12 T 16S R
44E, BEAR LAKE Co.

Use: DOMESTIC (2.80 CFS) from 01-
01 to 12-31

Place of Use: LOT 03 Sec 12 T 16S R 44E

Diversion Means: WELL, PUMP &
PIPELINE.

Any exception to any claim of water
right may be filed with the Director of
the Idaho Department of Water
Resources, 1515 Lincoln Road, Idaho
Falls, Idaho 83401.

C. Stephen Allred

C. STEPHEN ALLRED

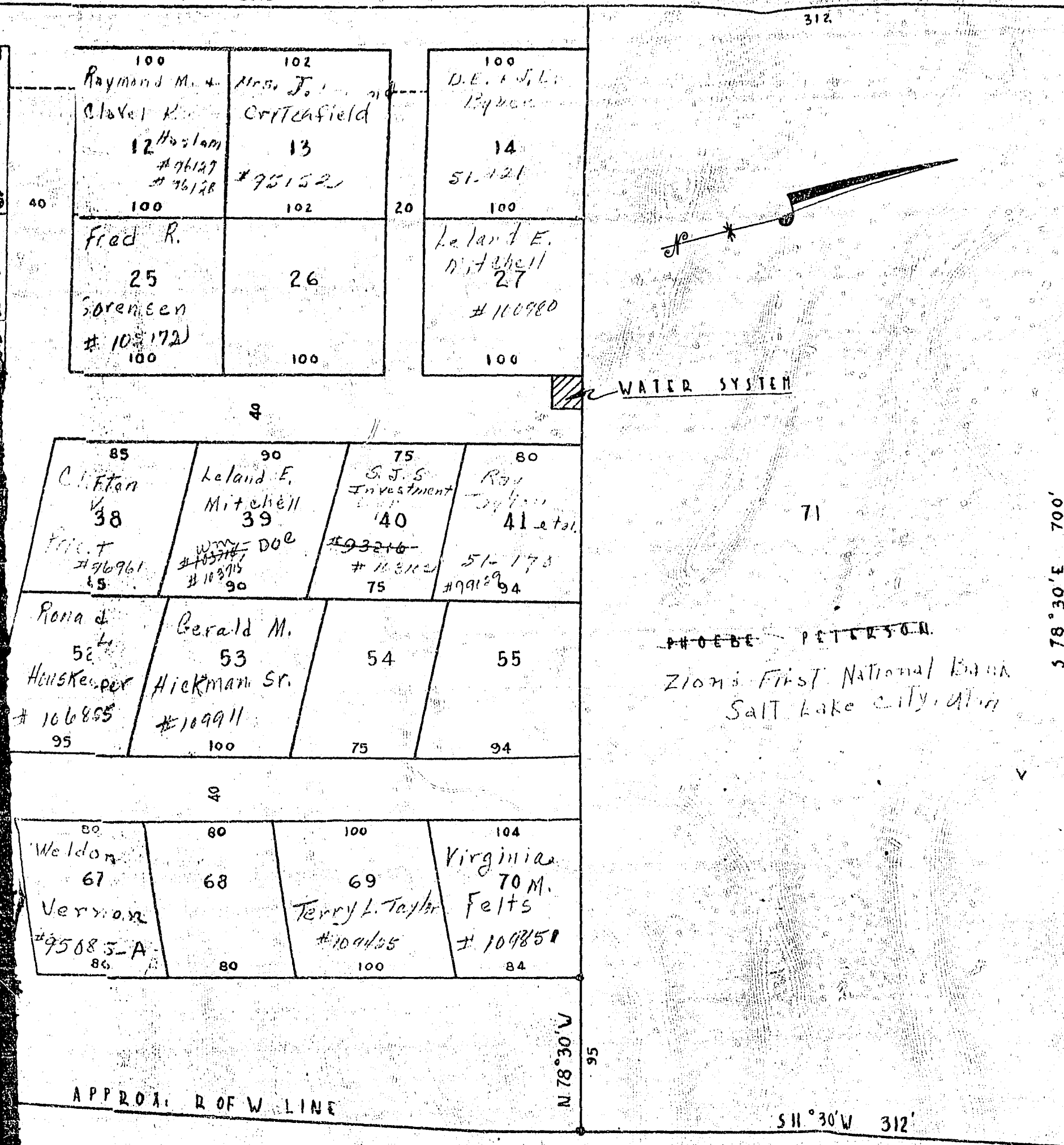
Director

Published 5-08 & 5-15-80.

M 8-15

BEIR LAKE

N 11° 30' E 1153.75'



PHOEBE PETERSON
Zion's First National Bank
Salt Lake City, Utah

SANDS.

Corby Jensen
Kipp Merrill

BEAR LAKE

MEANDER LINE

N 11° 30' E 1153.75'

9.75 0.75 20	100 Darrell L. Moser 7 ~~#960522~~ #103106 100	75 Wilbur S Thain 8	80 9 80	20	80 Ralph Harris 49-434 10 80	85 11 472416 85	40	100 Raymond M. + Clayton K. 12 Haslam #96127 #96128 100	102 Mrs. J. COTTENFIELD 13 #75152 102	20	100 D.E. + J.L. Byrnes 14 51-121 100
75	Ernest E. 21 Siler #96637 100	50-486 75	22 Thain 50-486 80		Fred R. Shepherd 23 #100504 80	Virgil A. 24 Hincheliff #94875 85		Fred R. 25 Sorensen #105172 100	26 100		Leland E. Mitchell 27 #100980 100

110 Bear Lake East INC. 34 #100786 90.22	109.45 Bear Lake East, INC. 35 #100786 90.22	90 LEWIS E. 36 AMIDON #101349 90	100 37 100	85 C. L. Farn 38 #96961 85	90 Leland E. Mitchell 39 #103715 90	75 S. J. S. Investment 40 #93216- #113112 75	80 R. J. Taylor 41 et al 51-170 #99129 94
48 Norman K. Bryner #107718 70.7	49 J. Donald Hopkins #100754 70.7	50 Gordon K. Frisbey #103310 90	51 Gordon K. Frisbey #93428 100	52 Rona L. Hunsicker #106855 95	53 Gerald M. Hickman Sr. #109911 100	54 75	55 94

75 Robert F. 62 Zarbock #100111 75	75 Gerald 63 J. Palmer #105892 75	90 Verlyn 64 PARKER #109912 90	75 Paula Kay 65 Parker #104311 75	80 66 80	80 Weldon 67 Vernon #95885-A 86	80 68 80	100 69 Terry L. Taylor #109405 100	104 Virginia 70 M. Felts #109851 84
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S 11° 30' W 841.75'

APPROX. R OF W LINE

N 78° 30' W

BEAR LAKE SANDS.

SUBDIVISION

SCALE

1" = 75'-0"

BEAR LAKE

BEGINNING

N 10° 45' E 587' section 12 14 44 15 16

MEANDER LINE

91 Mary Louise Waters 2 #99236 91	85 Dorothy 3 #99236 85	100 Harold J. Moser 4 #92876 100	85 Harold J. Moser 5 #96636 85	55.25 Joseph J. Bechtel 6 #104334 55.25	19.75 Daniel L. Moser 7 #103106 19.75	75 Wilbur S. Thain 8 50-486 75	80 9 80
16 Boulton 72	17 85	18 Harold J. Moser #92876 100	19 Courtney H. Brewer #96636 85	20 Ralph A. Bechtel #104334 55.25	21 Ernest E. Siler #96637 100	22 50-486 80	20

75 Angela Lee 28 Boulton et al 75	75 29 438 75	95 Willard J. Van Harden 30 #101888 95	100 31 #100565 100	100 Hal George Pallen 32 #100565 100	41.7 K. E. Pallen 33 #100565 41.7	48.3 33 #100565 48.3	110 Bear Lake East Inc. 34 #100786 90.22	109.45 Bear Lake East Inc. 35 #100786 90.22	9 LEWIS 36 Amida #100786 90
42 Elmer K. Bailey #103209 75	43 Gordon P. Cragun #112924 75	44 B. J. Sanney #109340 95	45 100	46 A. I. Win Hunsaker #106320 100	47 3.7 86.3	48 Norman K. Bryner #117718 70.7	49 J. Donald Hopkins #100754 70.7	50 Gordon K. Frisbey #103310 90	50

100 Arden A. Campbell 56 #99510 60	75 Dale Lohm 57 #112210 75	85 Dale Lohm 58 #112210 85	85 Ray Sewell 59 #112210 85	75 60 95	31.15 Eldon P. Guinney 61 #105106 32.15	42.45 62 #105106 62.75	75 Robert F. Zarbeck 63 #100711 75	75 Gerald J. Parker 64 #105892 75	90 Verlyn Parker 65 #109912 90	90
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APPROX. COUNTY ROAD

NOTE:

CORNERS OF 40' ROADS TO BE ROUNDED WITH 25' RADIUS CURVES.

LENGTH OF ALL LOTS IS 100' MEASURED AT RIGHT ANGLE WITH FRONT EXCEPT LOT 8 (200').

BEAR

SUBD

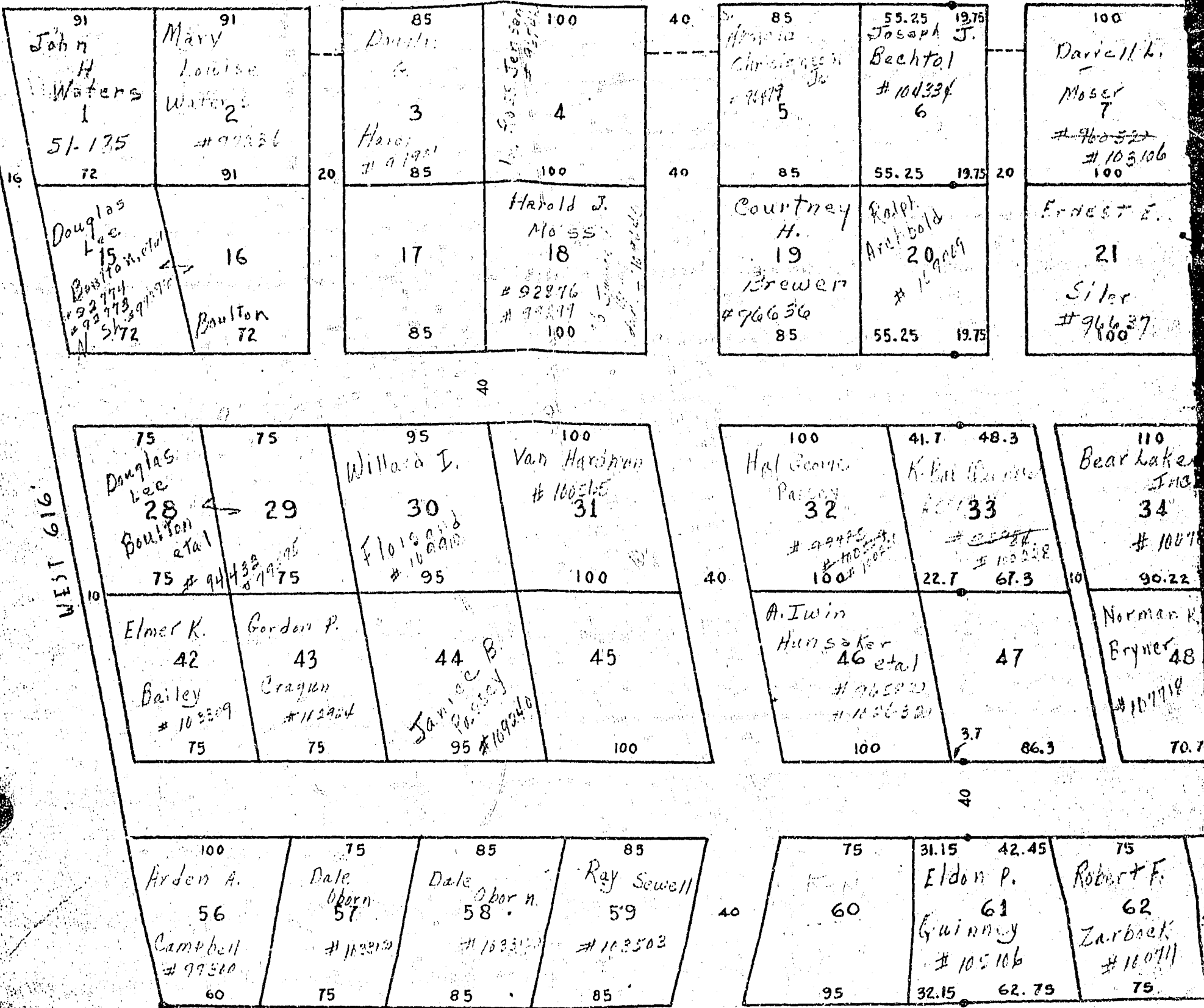
SCALE

BEAR LAKE

POINT OF BEGINNING

N 10° 45' E 587' Section 12 Rge 16 T44S R16E

MEANDER



APPROX: COUNTY ROAD

NOTE:

CORNERS OF 40' ROADS TO BE ROUNDED WITH 25' RADIUS CURVES.

LENGTH OF ALL LOTS IS 100' MEASURED AT RIGHT ANGLE WITH FRONT EXCEPT LOT 8 (200').

B

11-4092-

BEAR LAKE EAST, INC.

3735 NORTH 900 WEST, OGDEN, UT 84404

Source: GROUNDWATER

Priority Date: 07/01/1961

Amount: 2.80 CFS

Diversion Point: LOT 03 Sec 12 T 16S R 44E, BEAR LAKE Co.

Use: DOMESTIC (2.80 CFS) from 01/01 to 12/31

Place of Use: LOT 03 Sec 12 T 16S R 44E

Diversion Means: WELL, PUMP & PIPELINE.

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401.

C. STEPHEN ALLRED

Director

Published 5/08 & 5/15/80.

June 2, 1980

RE: Claim to a Water Right No. 11-4091 HIRSCH
No. 11-4092 BEAR LAKE EAST, INC.
Application for Permit No. 11-7130 WESTLAKE

The News-Examiner
P.O. Box 278
Montpelier, Idaho 83254

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on May 8 and 15, 1980.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

KAY WALKER
Secretary

CW:kw

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

MAY 28, 1980

BEAR LAKE EAST, INC.
3735 NORTH 900 WEST
OGDEN

UT 84404

RE: Claim No. 11-4092

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,

RONALD D. CARLSON
Eastern Region Supervisor

Enclosure

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: Kozlowski

Right Number 11-4092

Applicant Bear Lake East, Inc.

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
- ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
- ☒ Source.
- ☒ Quantity, use, period. 5/26
- ☒ Point(s) of diversion.
- ☒ Location of use.
- ☒ Signature/notarization/fee.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☐ Exceptions processed.

By Ernest Gilman

Date 6-16-1980

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By W. H. H. H.

Date 6/30/80

MEMORANDUM

To: File 11-4092

From: Cynthia Bridge Clark *CB*

Date: April 18, 2002

Re: Telephone Conversation

I spoke with Mr. Cliff Porter twice today over the telephone about the content of water right 11-4092, a statutory claim owned by Bear Lake East, Inc. The claim is for a diversion rate of 2.8 cubic feet per second (cfs), and specifies: "domestic use in 70 lot summer home subdivision on the east side of Bear Lake, formally known as Bear Lake Sands #1."

Mr. Porter explained that in reviewing the claim he noticed that the description of use was not accurate and wanted to know how it could be amended and clarified. He noted that when the subdivision was established, an agreement was made to provide water to six homes to the east of the subdivision in exchange for the right to place a storage tank on one of the properties. The tank is part of the water distribution system for the subdivision, and the agreement allowed the subdivision owners to place the tank on adjacent property at a higher elevation. Mr. Porter explained further that there was some confusion when the claim was filed, and that it needed to cover seventy-one lots rather than seventy, as well as the six homes adjacent to the subdivision. He confirmed that the homes are located in the same place of use described on the claim (government lot 3, T16S, 44E, section 12).

The claim to a water right was filed April 29, 1980, and specifies that ground water was put to beneficial use on July 1, 1961. Based on my conversation with Mr. Porter, the subdivision is comprised of 71 lots, seventy of which were identified on the claim. He was unsure of exactly how many lots have homes on them at this time, but believed that water laterals had been installed on each of the lots. He also confirmed that the six homes east of the subdivision were built after March 25, 1963, the date after which Idaho Code required water users to establish a water right for ground water use through the application/permit/license process.

In reviewing options to account for water use of the adjacent homes, I explained that water right 11-4092 is a claim to a water right, and was not developed via the application/permit/license process. I explained the criteria under which a statutory claim could be filed, and noted that the Department had not yet verified the validity of the claim. We also discussed the fact that Bear Lake East, Inc. could only file a claim for water that was diverted and put to beneficial use prior to March 25, 1963, and that an application for a water right should have been filed for any uses developed after this date.

We discussed the options for acquiring a water right for the adjacent homes:

1. Statutory Claim 11-4092: I clarified with Department staff, and communicated to Mr. Porter that the six adjacent homes could not divert water under this claim if they were not officially part of the subdivision, and if they were not putting water to beneficial use prior to 1963.
2. Domestic Exemption: I explained that Idaho Code 42-227 provides for a domestic exemption for domestic uses, as defined in Idaho Code 42-111. However, I also noted that although the six houses are owned individually, it appears that they can only exercise a domestic exemption by drilling a new well, independent of the subdivision's well. The adjacent properties cannot tap into the subdivision's distribution system without developing a new water right. I noted that it may be possible for up to three households to connect to the same well if separate pumps and delivery systems are used to supply water for each household (see letter written to Roger Simmons by Norm Young, dated April 10, 2000).
3. Transfer: We discussed the possibility of filing an application for transfer of water from water right 11-4092. I reiterated that the Department would review the extent of development of the statutory claim in conjunction with processing the transfer application.
4. Bear River Ground Water Management Area: I informed Mr. Porter that the subject properties are in a moratorium area limiting the processing of new consumptive use applications for water rights. I explained that they could still apply for a permit to appropriate a water right for domestic use, but may be limited to in-house use only.

As far as modification of the statutory claim to include seventy-one lots rather than the identified seventy, I explained that the owners could amend the claim. They would need to pay a processing fee, and the amended claim would then be advertised and subject to public comment.

Mr. Porter was concerned that the agreement between the six adjacent property owners and the subdivision stipulated that water would be provided by the subdivision. We concluded that he should send copies of the legal agreement, the warranty deeds for the related properties, and any other information to verify the scope of the statutory claim and development of the water use by the property owners.