

FEB 24 1998

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 11-7435

NOV 25 1996

Department of Water Resources
Eastern Region

cell phone: 801-757-6278

Phone 801-946-3333

1. Name of Applicant Lake Vista Properties, L.L.C./ Norman D. Mecham Phone 801-946-3333
Mailing address 2126 South Bear Lake Blvd., Garden City, Utah 84028
2. Source of water supply ground water which is a tributary of NA
3. Location of point of diversion is Township 16S Range 43E Sec. 15 in the NW 1/4,
of the NW 1/4, Govt. Lot , B.M., Bear Lake County;
additional points of diversion if any: _____
4. Water will be used for the following purposes: .
Amount 0.72 cfs for Domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
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) 0.72 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 NA
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 200 + 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 5 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. 42
e. Other; describe fully. irrigation required for the 42 households (1/2 acre
per household)

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	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	43E	10											D	D					
16S	43E	15					D	D	D	D									

Total number of acres to be irrigated _____

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

11. a. Who owns the property at the point of diversion? Lake Vista Properties, L.L.C.

b. Who owns the land to be irrigated or place of use? Lake Vista Properties, L.L.C.

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

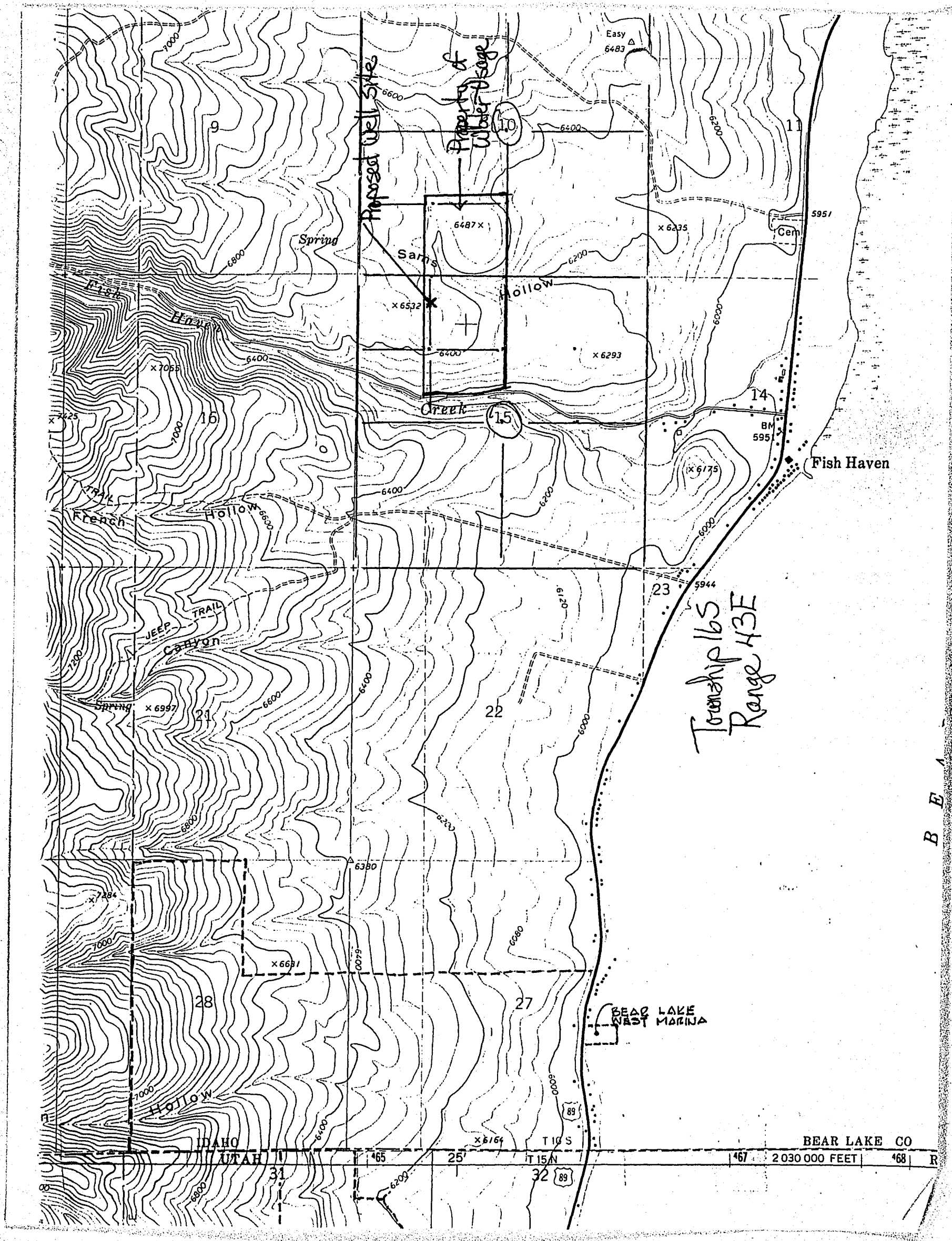
12. Remarks: This filing will be developed by Westlake Drilling Co. and service 42 recreational/residential homes and their associated irrigation demands.

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] for Lake Vista Properties, L.L.C.
Signature of Applicant (and title, if applicable) member

Received by [Signature] Date 11-25-96 Time 11:40 AM Preliminary check by _____
Fee \$ 100.00 Receipted by [Signature] # EC22781 Date 11-25-96
Publication prepared by RB Date 12-19-26-1996 Published in News Examiner
Publication approved RB Date 1-7-1997

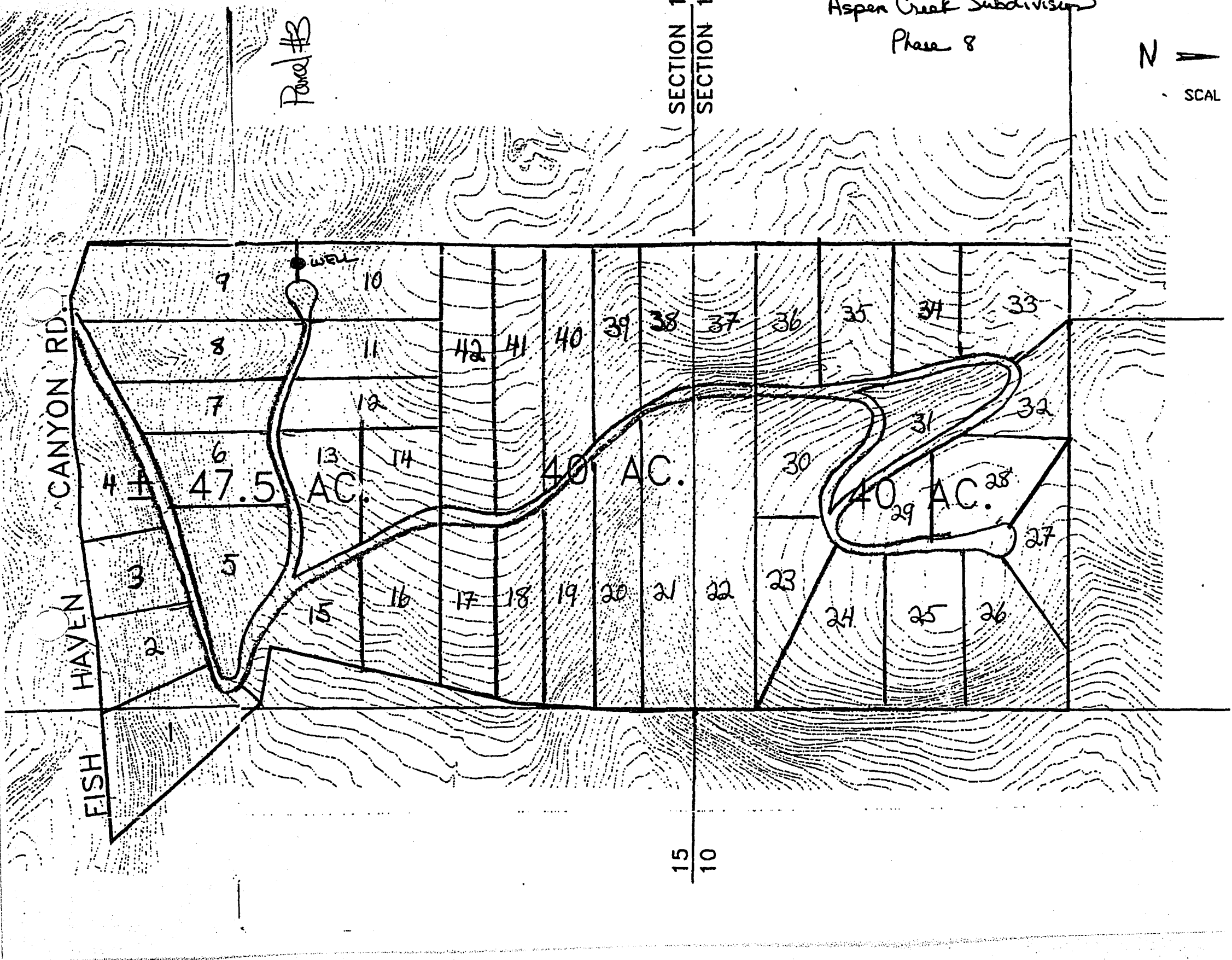


Parcel #3

SECTION 1
SECTION 1

Aspen Creek Subdivision
Phase 8
Parcel #3

N
SCAL



State of Idaho
Department of Water Resources
Permit To Appropriate Water
NO. 11-07435

Proposed Priority: November 25, 1996 Maximum Diversion Rate: 0.72 CFS

This is to certify, that **NORMAN D MECHAM**
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

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

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.72 CFS

LOCATION OF POINT(S) OF DIVERSION: NWNW , Sec. 15, Township 16S, Range 43E
BEAR LAKE County

PLACE OF USE: DOMESTIC

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>			
16S	43E	10	SWSW	SESW	
		15	NENW	NWNW	SWNW
			SESW		

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **June 1, 2003**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

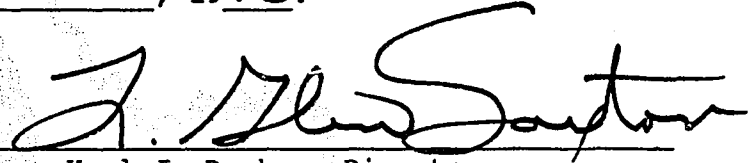
NO. 11-07435

CONDITIONS OF APPROVAL AND REMARKS

6. Point of diversion is located between Lots 9 & 10, Aspen Creek Subdivision, Phase 8.
7. Places of use are located within Lots 1-42, Aspen Creek Subdivision, Phase 8.
8. Domestic use is for 42 homes.
9. The right holder shall use the full allotment of appurtenant surface water irrigation rights in conjunction with groundwater diverted under this right for irrigation purposes.
10. This right shall not be used for irrigation purposes if the surface water irrigation right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use. The irrigation occurring from ground water under this domestic right shall not exceed 1/10 acre within each platted subdivision upon which a home has been constructed. This right does not provide for the irrigation of common areas or for irrigation of lots upon which homes have not been constructed.

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

15th day of June, 1998.

for 
Karl J. Dreher, Director

LAKE VISTA PROPERTIES, L.L.C.
2126 S. BEAR LAKE BLVD.
GARDEN CITY, UT. 84028

PHONE: (801) 946-3333

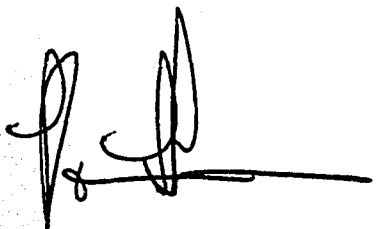
November 21, 1996

Attn: Hal Jones
Idaho Dept of Water Resources
Eastern Region
900 N. Skyline Dr.
Idaho Falls, ID 83402-1718

Enclosed you will find the application, please review it and if you have any questions concerning it, feel free to contact me. I hope that you find everything in order. I would like to advertise as soon as possible, hopefully in December of this year.

Thank You

Sincerely,

A handwritten signature in black ink, appearing to read 'Norman Mecham', with a stylized flourish at the end.

Lake Vista Properties, L.L.C.
Norman Mecham Member

OFFICERS OF THE LIMITED LIBALITY COMPANY, LAKE VISTA PROPERTIES, L.L.C.

NORMAN MECHAM\MEMBER
480 E. 600 S.
LOGAN, UTAH 84321

A. RAY ELLIOTT\MEMBER
919 HILLCREST AVENUE
LOGAN, UTAH 84321

GARY MCKEE\MEMBER
148 E. 200 S.
LAKETOWN, UTAH 84038



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

December 13, 1996

NORMAN D MECHAM
LAKE VISTA PROPERTIES
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Notice of Application for Permit No. 11-07435

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 News Examiner on Dec. 19 & 26, 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 an 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 an 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 twelve weeks.

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

Sincerely,

Harold W. Jones
Harold W. Jones
Water Right Supervisor

HWJ/rb



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

DECEMBER 13, 1996

Legal Notices Department
THE NEWS-EXAMINER
P.O. BOX 278
MONTPELIER, ID 83254

Gentlemen:

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

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

Please send the affidavit of publication and publication billing to this office before JANUARY 6, 1997.

Yours truly,

Rita Bodell
Secretary

Encl.



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

December 23, 1996

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Notice of Application for Permit No. 11-07435 & 11-07436

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 News Examiner on January 19 & 26, 1996. The advertisements 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 an 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 an 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 twelve weeks.

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

Sincerely,

Harold W. Jones
Harold W. Jones
Water Right Supervisor

HWJ/rb



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

December 24, 1996

ID DEPT OF HEALTH & WELFARE
POCATELLO FIELD OFFICE
224 S ARTHUR
POCATELLO ID 83204

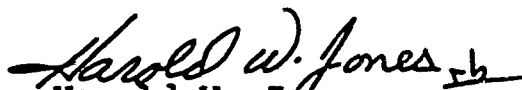
RE: Application No. 11-07435

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 January 6, 1997, 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/rb
enc.



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

December 24, 1996

ID DEPT OF HEALTH & WELFARE
POCATELLO FIELD OFFICE
224 S ARTHUR
POCATELLO ID 83204

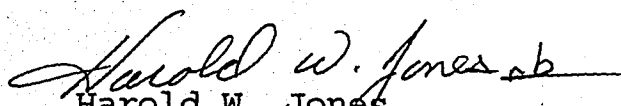
RE: Application No. 11-07435, 11-07436, & 11-07437

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 January 6, 1997, 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/rb
enc.

No 5303

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

Rosa S. Moos

being duly sworn

deposes and says:

That he is the Editor
NEWS-EXAMINER, a weekly newspaper published in
Montpelier, in the County of Bear Lake and State of Idaho.
said paper has been and is in general circulation in the
county aforesaid, and in the vicinity of Montpelier;
advertisement, a copy of which is attached hereto, was
published in said newspaper once a week for 2
consecutive weeks in the regular and entire issue of said
newspaper during the period and time of publication, and was
published in the newspaper proper and not a supplement; the
said newspaper has been established and regularly published
for more than seventy-eight consecutive weeks prior to the
first publication of said advertisement.

Such notice was published in the issue beginning

December 18, 1996 and

with the issue of December 25

Rosa S. Moos

Fees, \$66.69

Subscribed and sworn to before me this 26th day

of December, 1996

Sherry Brown

Notary Public, Residing at Montpelier, Idaho

My Commission Expires August 15, 1997

NOTICE OF APPLICATION FOR WATER RIGHT

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

11-07435

MECHAM, NORMAN D.
LAKE VISTA PROPERTIES LLC
2126 S. BEAR LAKE BLVD
GARDEN CITY, UT 84028

Source: GROUNDWATER.

Diversion Pt: NWNW, Sec 15 T
16S R 43E in BEAR LAKE County.

Use: DOMESTIC (0.0720 CFS);
Total Diversion: (0.0720 CFS).

Date Filed: 11/25/1996.

In: BEAR LAKE County. T16S
R43E S10 SWSW SESW S15
NENW NWNW SWNW SENW.

11-07436

MECHAM, NORMAN D.
LAKE VISTA PROPERTIES LLC
2126 S. BEAR LAKE BLVD
GARDEN CITY, UT 84028

Source: GROUNDWATER.

Diversion Pt: NWSW Sec 15 T
16S R 43E in BEAR LAKE County.

Use: DOMESTIC (1.500 CFS).
Total Diversion: (1.500 CFS).

Date Filed: 11/25/96.

In BEAR LAKE County T16S
R43E S15 SWNE SWNW NESW
NWSW SWSW SESW NWSE
SWSE.

11-07437

CITY OF MONTPELIER
534 WASHINGTON
MONTPELIER, ID 83254

Source: GROUNDWATER.

Diversion Pt: NWNW Sec 10 T
13S R 44E in BEAR LAKE County.

Use: MUNICIPAL (2.670 CFS)
Total Diversion: (2.670 CFS)

Date Filed: 11/22/1996.

In: City of Montpelier.
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 fil-
ing fee, Eastern Region, 900 N
Skyline, Idaho Falls, Idaho 83402
on or before JANUARY 6, 1997.

KARL J. DREHER
Director

Legal No. 5303 — Publish Dec.
18 and Dec. 25, 1996.

2. Protestant owns water rights in the Bear River and Bear Lake decreed in the matter of *Utah Power & Light Company v. The Last Chance Canal Company, Limited, et al*, in Equity No. 203, July 14, 1920, and *Utah Power & Light Company v. Richmond Irrigation Company, et al*, February 21, 1922, as well as other rights in the Bear River below Applicant's proposed point of diversion.

3. Protestant believes that withdrawals of groundwater in Bear Lake County, Idaho, such as that proposed by the applicant, will diminish the groundwater inflow contribution to the surface flow of Fish Haven Creek, and to other inflow to Bear Lake, to which Protestant and many other Idaho and Utah water users have prior existing water rights and use contracts.

4. Protestant has entered into many contracts with irrigators in Idaho and Utah along the Bear River, some of whom may be Protestants in this matter, for supply of supplemental storage water from Bear Lake when the natural flow of the Bear River is insufficient to satisfy existing water rights. However, during drought periods, high irrigation demands cause the level of Bear Lake to drop significantly, endangering Protestant's ability to continue to deliver supplemental irrigation water pursuant to its contracts.

5. Granting the application of Applicant would adversely affect Protestant's water rights by decreasing the amount of tributary inflow to Bear Lake. When Protestant is required to release Bear Lake storage water to satisfy its contracts, less water will be available to replace it in Bear Lake.

6. Protestant's supplemental storage water supply from Bear Lake is fully allocated, and Protestant will not offer a new supplemental storage water contract to Applicant. Even if some water is available from time to time to satisfy Applicant's proposed uses, the supply under such a late priority would be sporadic at best, probably usable for a short time only in the spring, and not adequate to sustain Applicant's needs throughout its requested annual period of use.

7. In addition to diminishing the quantity of Bear Lake water available to satisfy prior existing water rights and contracts, Protestant believes that granting the above-referenced application would conflict with the local public interest in the three following areas by reducing

groundwater inflow into the Bear River: First, reliance by existing users on supplemental irrigation water delivered from Bear Lake will be impaired. Second, when the level of Bear Lake drops in extended droughts, recreation and other non-consumptive uses at the lake are adversely affected. The new Idaho State Parks & Recreation boat launch becomes unusable; the new State park receives little use due to its distance from the water; facilities built with State funds are unusable, and visitor days and the attendant revenue they produce for the State plummet. The local economy at the lake suffers. Third, traditional habitat for indigenous fish in Bear Lake is decreased. Other wildlife species which depend on the lake will have similar problems due to habitat loss. The spread of noxious weeds and tamarisk is accelerated along the lake shore.

8. PacifiCorp encourages Applicant to consider acquisition of an existing water right in the vicinity of Bear Lake as replacement water.

WHEREFORE, Protestant respectfully protests the above-referenced application and requests that it be denied.

DATED this 27th day of December, 1996.

PACIFICORP, dba
UTAH POWER & LIGHT COMPANY

By Jody L. Williams
Jody L. Williams, Attorney
Kruse, Landa & Maycock, L.L.C.
50 West Broadway, Suite 800
Salt Lake City, Utah 84101
Telephone: (801) 531-7090

MAILING CERTIFICATE

On this 27th day of December, 1996, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

Norman D. Mecham
Lake Vista Properties, L.L.C.
2126 S. Bear Lake Blvd.
Garden City, Utah 84028

Carly Burton
PacifiCorp
1407 West North Temple, Room 199
Salt Lake City, Utah 84140

Randall C. Budge, Esq.
Racine, Olson, Nye, Cooper & Budge
Corner First & Center
P.O. Box 1391
Pocatello, Idaho 83204

Brent Rose, Esq.
Clyde, Snow & Swenson
201 South Main Suite 1000
Salt Lake City, Utah 84111

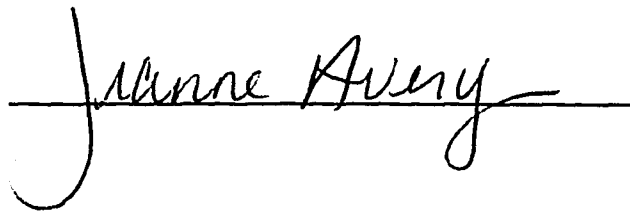
Bear River Water Users Association
c/o J. Kent Horton
587 Wasatch Blvd.
Smithfield, Utah 84335

Randall M. Weiner
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

Jim Kimbal
P.O. Box 145
St. Charles, Idaho 83272

Thomas Graf, Esq.
Office of the Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Cheryl C. Williss, Chief
Division of Water Resources
P.O. Box 25486
Denver Federal Building Mail Stop 60189
Denver, Colorado 80225



KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (300 SOUTH)
SALT LAKE CITY, UTAH 84101-2034

JODY L. WILLIAMS

TELEPHONE: (801) 531-7090
TELECOPY: (801) 359-3954
(801) 531-7091

WRITER'S VOICE MAIL
(801) 531-7090 ext. 234

December 27, 1996

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED
DEC 30 1996
Department of Water Resources
Eastern Division

Re: Protest to applications to appropriate water

Dear Idaho Department of Water Resources:

Enclosed for filing please find PacifiCorp's protest to the following applications to appropriate water in the Bear River basin.

11-07435 and 11-07436	Norman D. Mecham, Lake Vista Properties, L.L.C.
11-07437	City of Montpelier

Checks are also enclosed representing the protest filing fees.

If you have any questions or need further information, please contact me at the telephone number listed above.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.

Jody Williams
Jody L. Williams

JLW:ja

Enclosures

cc: Carly Burton
Mike Winslow

Receipt # E0228-25
Receipt # E022852-25

Randall C. Budge
RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED
P.O. Box 1391; 201 E. Center
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109

RECEIVED
DEC 31 1996
Department of Water Resources
Eastern Region

D. Brent Rose
Clyde, Snow & Swenson, P.C.
One Utah Center, Suite 1000
201 South Main Street
Salt Lake City, Utah 84111-2208
Telephone: 801-322-2516

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION	)	PROTEST OF BEAR RIVER
TO APPROPRIATE WATER FILED BY	)	WATER USERS' ASSOCIATION
NORMAN D. MEACHAM, Lake Vista	)	
Properties, L.L.C., Applicant,	)	
Application Nos. 11-07435 and 11-07436	)	

Bear River Water Users' Association, by and through its legal counsel, Randall C. Budge of Racine, Olson, Nye, Cooper & Budge, Chartered, and D. Brent Rose of the firm Clyde, Snow & Swenson, P.C., hereby protests the granting of the above-described Application to Appropriate (the "Application"). In support of its protest, the Association hereby states as follows:

1. Bear River Water Users' Association (the "Association") is a non-profit corporation and cooperative association organized in 1994 to represent Bear River Basin water users for the purpose, among other things, of monitoring, protecting and defending their respective decreed and appropriated water rights and other contract rights and common interests in and to the natural flow of water in the Bear River and its tributaries and irrigation storage water in Bear Lake. The

prior vested rights of the Association's members must be protected and preserved inviolate from interference and impairment.

2. The Association's membership includes the Last Chance Canal Company, West Cache Canal Company and Cub River Irrigation Company and approximately 22 irrigation pumpers in Idaho, and Bear River Canal Company and approximately 81 irrigation pumpers in Utah. Collectively, the Association's members represent approximately 3000 family farms having a combined irrigated acreage of approximately 151,000 acres in Idaho and Utah.

3. Members of the Association hold decreed and other appropriated rights under the respective laws of the States of Idaho and Utah for the diversion and use of the natural flow of water in the Bear River and its tributaries, for irrigation, stockwatering and other purposes. The direct flow rights of the Association's members are all supplemented with water which is held in storage in Bear Lake and released to them for use pursuant to contracts executed by and between each of the individual members and Utah Power and Light Company, a subsidiary of PacifiCorp.

4. The diversion and use of water by the Applicant pursuant to the proposed Application will adversely impair the decreed and appropriated water rights of the Association's members by diminishing the amount of water flowing naturally in the Bear River and its tributaries to which the Association's members have the prior vested right.

5. Further, when the natural flow of the Bear River is insufficient to satisfy the water rights of the Association's members, the members of the Association depend upon the supplemental water supply delivered out of storage in Bear Lake by PacifiCorp in satisfaction of its contractual obligations. The diversion and use of water by the Applicant pursuant to the proposed Application thus adversely impairs the contractual rights of the Association's members. The decrease in the natural flow of the Bear River and its tributaries resulting from new appropriations in the Bear River Basin correspondingly increases the already unsustainable demand on Bear Lake storage water which PacifiCorp is obligated to deliver pursuant to its supplemental irrigation water contracts with the Association's members.

6. In light of the foregoing, authorizing the diversion and use of water as proposed in the Application is inconsistent with the best interest of the public. Any action which serves

to decrease the supply of water in storage in Bear Lake is detrimental, not only on the irrigators who depend on the stored water supply in the lake for their livelihood, but it is likewise detrimental to the local economy of the communities surrounding Bear Lake as well as those having non-consumptive uses and interests in Bear Lake including recreation, wildlife and fish habitat.

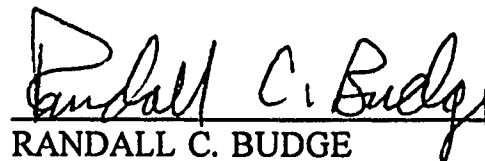
7. Finally, the Association asserts that the source of supply from which Applicant seeks a right as described in the Application is fully appropriated and has been applied to beneficial use by the members of the Association and others; and as such, there is no unappropriated water in the source.

WHEREFORE, in consideration of the foregoing, the Association respectfully protests the granting of the Application. In the event a hearing is scheduled in connection with the Application, the Association requests notice and an opportunity to participate as a party in the proceedings. The Association further requests that the Idaho Department of Water Resources impose a formal moratorium on new applications to appropriate water in Cache Valley and in other areas determined to be hydrologically connected to the Bear River and its tributaries.

In the event the Idaho Department of Water Resources grants the Application, the Association alternatively requests that such approval be issued subject to appropriate conditions, including conditions clearly specifying that the right to divert and use water under the Application is subject to all prior rights to the use of groundwater and surface water hydrologically connected to the Applicant's source of supply, that the Department of Water Resources will conjunctively manage groundwater and surface water withdrawals in accordance with Idaho law which may require curtailment and/or mitigation by junior priority rights, in full or in part, as necessary to protect prior rights in times of shortage.

DATED this 30th day of December, 1996.

RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED


RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 30th day of December, 1996, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Idaho Department of Water Resources
Eastern Division
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Marcus J. Gibbs, President
Last Chance Canal Company, Ltd.
632 Highway 34
Grace, Idaho 83241

Jody Williams
8th Floor, Bank One Tower
50 West Broadway (300 South)
Salt Lake City, Utah 84101-2034

Jim Kimball
Bear Lake Watch, Inc.
P.O. Box 145
St. Charles, ID 83272

Bear River Water Users Association
c/o Dave Styer, Manager
Bear River Canal Co.
275 N. 1600 E.
Tremonton, Utah 84337

Randall M. Weiner
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

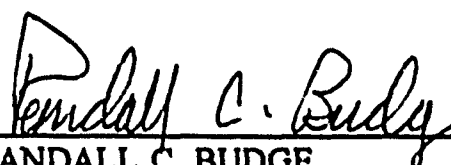
Reagan Wheeler, Manager
Cub River Irrigation Co.
P.O. Box 215
2530 W. 2000 S.
Lewiston, Utah 84320

Joseph Larsen, President
West Cache Canal Company
5397 W. 7200 N.
Newton, Utah 84327

James T. Watterson
Utah Pumpers Association
4705 W. 3800 N.
Benson, Utah 84335

Jerry C. Simmonds
Idaho Pumpers Association
47 W. 1200 N.
Trenton, Utah 84338

Norman D. Mecham
Lake Vista Properties, LLC
2126 S. Bear Lake Blvd.
Garden City, UT 84028



RANDALL C. BUDGE

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. MADLEY
MITCHELL W. BROWN
ERIC S. MUNN
DAVID E. ALEXANDER**
JAMES P. PRICE***

***ALSO MEMBER PL & NY BAR
**ALSO MEMBER ND BAR
***ALSO MEMBER CO BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

December 30, 1996

RECEIVED

DEC 31 1996

Idaho Department of Water Resources
Eastern Division
900 N. Skyline Drive
Idaho Falls, Idaho 83402

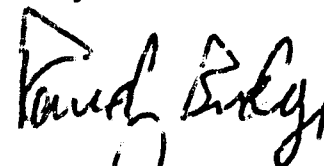
Attention: Ron Carlson
Harold Jones

Re: Application Nos. 11-07435 and 11-07436
Applicant: Norman D. Mecham, Lake Vista Properties, LLC

Dear Ron and Harold:

Enclosed for filing you will find Protest of Bear River Water Users' Association to the above-captioned Application. Also enclosed is our check in the amount of \$25 for filing fee.

Sincerely,


RANDALL C. BUDGE

RCB:rr

cc: Bear River Water Users' Association



IDAHO DEPARTMENT
OF HEALTH AND WELFARE
DIVISION OF
ENVIRONMENTAL QUALITY

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

RECEIVED
JAN 03 1997

Department of Water Resources
Eastern Region

Philip E. Batt, Governor

December 31, 1996

Mr. Harold W. Jones
Water Rights Supervisor
Idaho Dept. Of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402-1718

RE: Water Rights Application No. 11-07435, 11-07436 & 11-07437,
Comments

Dear Mr. Jones:

Thank you for making us aware of these applications and allowing us
an opportunity to comment on them.

We have contacted the owners and told them our requirements. We
have no comments to you.

Thank you again.

Sincerely,

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

cc: Henry Moran, IDEQ, Poc.

Page 2

5. Will the proposed use under this permit conflict with the local public interest?

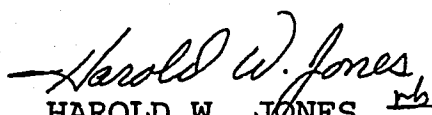
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES *rh*
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office



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

January 7, 1997

RANDALL C BUDGE
RACINE OLSON NYE COOPER &
BUDGE CHARTERED
PO BOX 1391
POCATELLO ID 83204-1391

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

Your protests against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) the following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?



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

January 7, 1997

D BRENT ROSE
CLYDE SNOW & SWENSON PC
ONE UTAH CENTER STE 1000
201 S MAIN ST
SALT LAKE CITY UT 84111-2208

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

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Page 2

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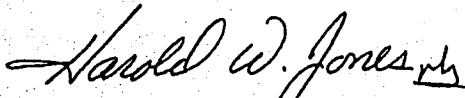
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office



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

January 7, 1997

JODY L WILLIAMS ESQ
KRUSE LANDA & MAYCOCK LLC
50 W BROADWAY STE 800
SALT LAKE CITY UT 84101

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

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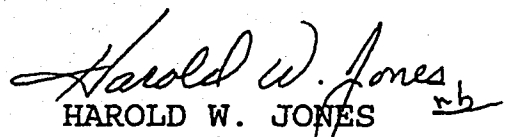
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If this office can be of further assistance, please contact us.

Sincerely,


HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office



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

January 7, 1997

STEVEN S DUNN ESQ
MERRILL & MERRILL
PO BOX 991
POCATELLO ID 83204

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

Your protests against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

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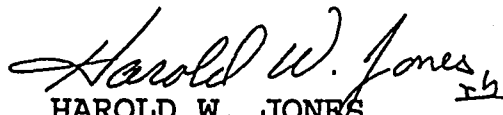
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If this office can be of further assistance, please contact us.

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office



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

January 7, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Applications for Permit No.'s 11-07435 & 11-07436

Dear Applicant:

Enclosed are copies of protests filed against the issuance of the above referenced applications. The Department suggests you contact the protestants directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

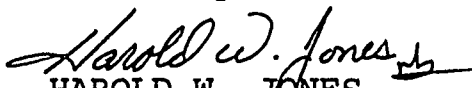
Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code § 42-203):

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

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor
HWJ:rb



Petition to inform

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region

IN REPLY REFER TO:

BA WTR
WR UT
Mail Stop 60189

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1800

RECEIVED

JAN 10 1997

Idaho Department of Water Resources
Eastern Region
900 North Skyline Drive
Idaho Falls, Idaho 83402

JAN 06 1997

Department of Water Resources
Eastern District Office

Dear Sir or Madam:

The Fish and Wildlife Service protests the following Applications to
Appropriate Water:

11-07435 for 0.72 cfs, filed by Norman D. Mechan
11-07436 for 1.50 cfs, filed by Norman D. Mechan
11-07437 for 2.67 cfs, filed by City of Montpelier

It is the position of the Service that the increased depletion will
adversely affect the water supply for the Bear Lake National Wildlife
Refuge and the Bear River Migratory Bird Refuge.

Enclosed is a Money Order in the amount of \$25 to cover the required
protest fee.

If you have questions or require further information, please contact me
at (303) 236-5321 extension 223.

Sincerely,

Cheryl C. Williss

Cheryl C. Williss
Chief, Division of Water Resources

Enclosure

Receipt # E022882

Receipt # E022912

\$50 check
will be sent
thru
1-14-97

Jim Kimbal, Board Member & Representative
BEAR LAKE WATCH, INC.
P.O. Box 145
St. Charles, ID 83272
Telephone: (208)945-2375

January 9, 1997

Director, Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED

JAN 13 1997

Department of Water Resources
Eastern District Office

Re: Protest to application for permit
Norman D. Machan
Lake Vista Properties, L.L.C.
No. 11-07435 and 11-07436

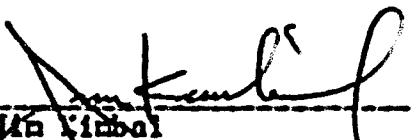
Dear Director:

On behalf of BEAR LAKE WATCH, INC., a citizen's group comprised of homeowners and recreationalists on Bear Lake, enclosed please find our petition to intervene and protest the above referenced applications.

Also enclosed is our check in the amount of \$25.00 to cover the costs of our protest.

Please do not hesitate to contact me if I can be of assistance in this matter.

Respectfully,



Jim Kimbal
Board Member & Representative
BEAR LAKE WATCH, INC.

enclosures

Fish Haven, ID

Jan. 11, 1997

Dear Sir,

Regarding Norman D. McNamee
application # 11-07435 + 11-07436

I object to their proposal here
in Bear Lake County and Fish Haven
to have septic tanks for this
new project.

There is an operating sewer
district here in Fish Haven and
it is on one side of this proposed
development with a trunk line
close by on the canyon lane.

If a permit is granted please
do it on condition of using the
available sewer system.

Note: Page one of the Bear Lake
County Special use permit appl.
filed for Lake Vista Properties
states they will use the sewer
Pages 3 want to use septic tanks

Thanks,

Lion Howell

see appl.

Leon Howell - Former Chairman
of Fish Haven Area Recreational
sewer District

Present Treasurer Fish Haven Pipe
Line Co.

Note - see where Fish
Haven sewer lines are
now. Page 5

FIELD OFFICE
DEPARTMENT OF JUSTICE

JUN 12 1964

RECEIVED

RECEIVED

JAN 13 1997

Department of Water Resources
Eastern District Office

Mr. [unclear]
[unclear]
[unclear]

[unclear]
[unclear]
[unclear]
[unclear]
[unclear]

0

BEAR LAKE COUNTY

SPECIAL USE PERMIT APPLICATION

NUMBER _____

RECEIVED

JAN 13 1997

Department of Water Resources
Eastern District Office

Fee: \$100.00 LAKE VISTA PROPERTIES, L.L.C.

NORMAN MECHAM/MEMBER

1. Applicant A. RAY ELLIOTT/MEMBER Date: December 4, 1996

Name: GARY MCKEE/MEMBER Phone (801) 946-3333

Address: 2126 South Bear Lake Blvd.

Garden City, Utah 84028

Legal Description of Property See Attached documents.

3. List of names and addresses of all property owners and residents within the land being considered, and within 300 feet from boundaries of land being considered, (Please attach to application).

Description of proposed special use: See Attached documents.

5. Attach a narrative statement providing evidence and evaluation as to how the proposed special use meets the following standards:

- (1) Will be harmonious with in accordance with the general goals and objectives in the BEAR LAKE COUNTY LAND USE GUIDE and/or Existing Land Use Ordinance.
- (2) Will be designed, constructed, operated, and maintained to minimize its impacts on the existing natural environment as presented in the LAND USE GUIDE and to be harmonious and appropriate in appearance with the existing character of the general vicinity as possible.
- (3) Will be served adequately by essential community facilities, and services such as highways, roads, police and fire protection, drainage structures, refuse disposal, water and sewer and school bus routes, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately, and such services.
- (4) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community and/or county.
- (5) Will comply with all applicable state, district and County Ordinances and regulations.
- (6) Will not involve uses, activities, processes materials, equipment and conditions of operation that will be hazardous or detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (7) The demographic, social economic, fiscal and environmental impacts resulting from the special use to the population are minimized and found to be acceptable by the Commission following a public hearing.
- (8) Will meet an identifiable existing or future need or market.

6. Development Plan: A schematic plan of the proposed site for the special use showing the topography of the land, the major road plan, the proposed general area of each type of use and open space.

15" ditch

Pipeline easement

75' FH

Sewers

10' FH Water

See

4. Description of proposed special use: The property in question is 130 acres located North of Loveland Lane, South of Fish Haven Canyon Road, and East of BLM. The land was part of a previously approved subdivision where the average lot size was 1/2 acre. We want to change that plan to an average lot size of 2 acres. The land has been leased for pasture in the last few years while the land was in limbo waiting for the development to take shape. In the mean time the County has done a great job in considering the long term plan of that area, and has gone ahead and made a great paved access road along this property (Loveland Lane) to accommodate the traffic from this development.

5. Attach a narrative statement providing evidence and evaluation as to how the proposed special use meets the following standards:

(1) Our goal has always been responsible development taking in consideration the Bear Lake County Land Use guidelines and goals of the County. This project is no exception. This area has a couple of areas of consideration that needs to be addressed. One is that it does fall into the deer winter-range-area just as all the development in the Bear Lake West area does. That is one reason we are dropping the density to one home per two acres. The other way we are answering this concern is by only letting them disturb a maximum of 50% of their building lot and leaving the rest as natural growth. This will be a part of the Conditions, Covenants, and Restrictions (CC and R's) placed on the property. The Home Owners Association will have full rights of 100% remedying any violation of the CC and R's to the point of being able to lien the property for any and all of the expense of the remedy.

Another concern is a small part of the property has 31% or more slope which will be labeled as non-building areas on their lot. Lots in that area will be five acres or larger which will give them plenty of area to build without having to build in those 31% slope areas.

u.s. Another concern is Fish Haven Creek. We will have a non-building buffer zone (30' on both sides of the creek for a total of 60' plus the width of the creek) so they will not be able to build right on the creek. Fish Haven south canal runs through this property. We have a 15' buffer zone on each side of the canal.

(2) The project will be designed, constructed, operated, and maintained to minimize impact on the environment. All improvements including power will be underground and going to an average of 2 acres instead of a half acre lot really cuts down on the roads and facilities needed. Most of the roads needed are already cut in. Of course they will need to be improved but the impact will be minimal. We only have two areas where the cut for the road will get in the four to five feet of bank. We will plant grass in those areas. Also, our CC and R's will be requiring them to plant at least five native trees and five native shrubs after they begin to build.

The project is also very appropriate and harmonious with the general vicinity given all the surrounding recreational development around this property. We will be maintaining that no mobile homes will be able to be built. This will be covered in our CC and R's. The County improving Loveland Lane with the foresight knowing that it would need to accommodate this property would seem to so show the intent of the area and how this project is in harmony with the goals of Bear Lake County.

Sewer??? Water???

(3) The project will not require any further community facilities that are not already in place. Most people buying in this area from past experience has shown us that they will be second homes, not requiring schooling etc.. The County has already put in place adequate roads and highways to serve this area. One concern of ours is Fish Haven canyon road and its already high recreation use. We planned for this and it really works best for the project as a whole to have the people using Loveland Lane instead of Fish Haven Canyon Road. All the roads lead to Loveland Lane. There will only be 5 or 6 lots that will be using Fish Haven Canyon Road. We had 13 or 14 using it until we made our lots on that side of the project much larger.

P The one service that the County provides that even the recreational home people do want is police protection. We see the tax benefit from this project will more than cover the police expense. Fire protection will be provided eventually through out the project by the developer as far as a system. It has been brought to our attention that the Fish Haven Fire truck is not adequate to handle the area now, so our project would put added pressure on the need to replace the existing fire truck. The added tax base should more than cover our share of this added expense. Water will also be provided by the developer and sewer will be septic. The existing school bus routes are adequate to handle this project. If any of the homes are in need of the school bus route, they would have to drive them a half mile to the nearest bus stop. It would seem as if that is pretty normal in this rural area. MD

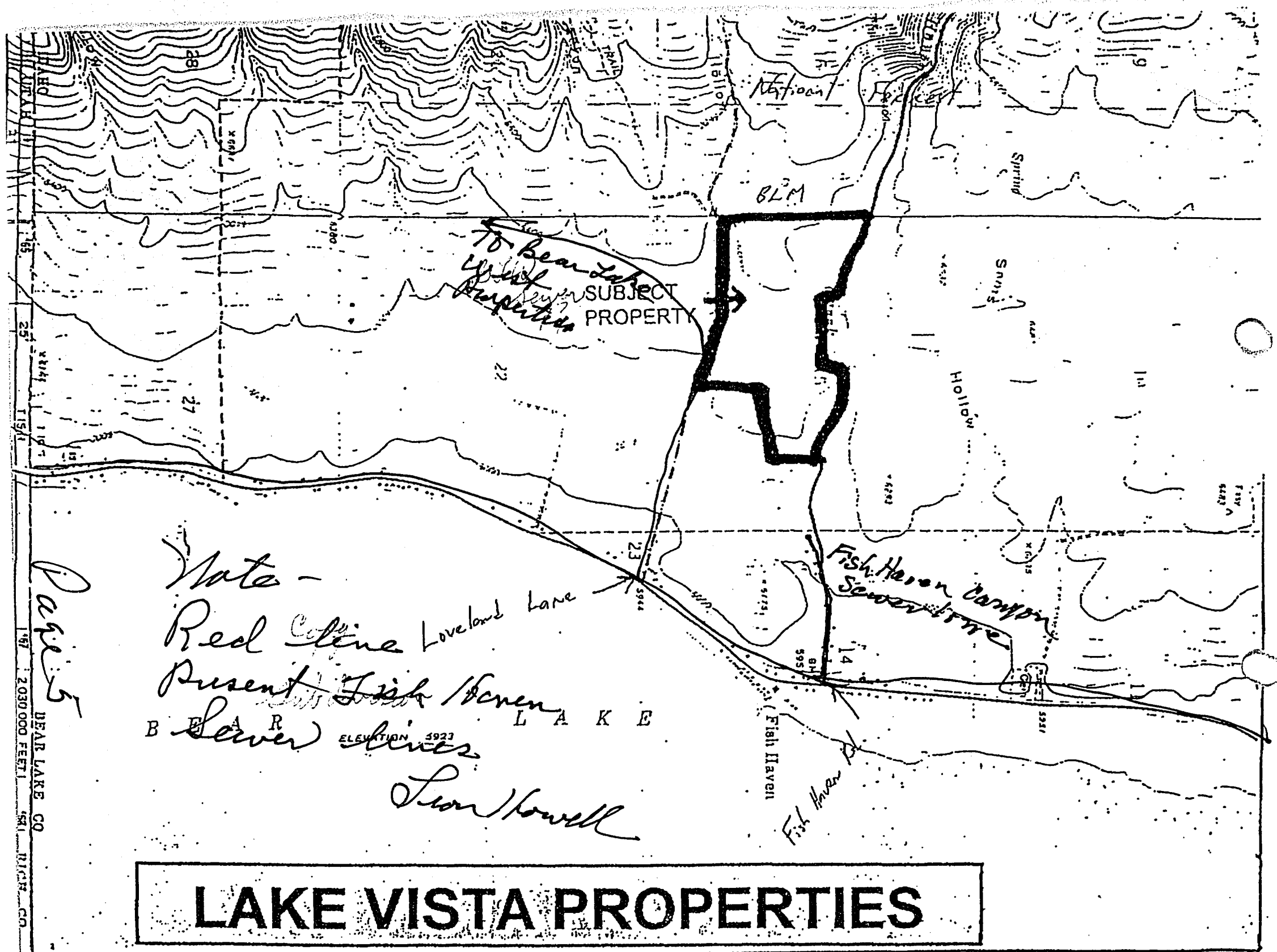
(4) This project will not create excessive additional requirements at the expense of the public or be a detriment in any way to the economic welfare of the county. The county is already maintaining Loveland Lane. The county has only been receiving a couple of hundred dollars in taxes from this property in the past. If 40 homes are built in the area, (which is only half of the lots), the county would have around 5,000,000.00 in taxable property. (This is based on figuring the 85 lots at an average value of \$20,000 and 40 homes valued at \$80,000. The \$20,000 figure came from comparing the Elk Hollow ranch development whose 24 lots that averaged 3.5 acres, and averaged a \$30,000 sales price. The \$80,000 figure on average cost of home is well under the average of all the homes built this year in the Bear Lake West area. The 24 lots in Elk Hollow all sold in a four month period of time from July to October of this year.) MD 85 40 125

(5) We are complying with all applicable state, district, and County ordinances and regulations. All homes built will have to get building permits and septic system permits from the Health Dept. The water system will be engineered to DEQ standards and approved through DEQ. MD

(6) We are not endangering in any way persons or property with this project. We are insuring this by putting into our CC and R's, restrictions on their property to make sure that all home owners will not create noxious or offensive activity such as smells or property appearance of junk cars on their property. If they have an animal such as a horse then they are responsible to get rid of the refuse from the animal. They will be allowed one warning. If they don't respond to the Home Owners Association and remedy the problem, then the Home Owners Association will have power to remedy the problem themselves and be able to lien the property for the expense of the remedy. No business's may be operated out of the home if it creates unwanted traffic or physical appearance or smell in the area.

(7) The demographic and social economic change to the area will be minimal with our 85 lot project as compared to the 1000 lots in the Bear Lake West project just adjacent to us. The buyers from the past have been about 85% coming from the Wasatch Front, 10% from Wyoming and Idaho, 5% other. 90% plus has been recreational only (second homes) and will not have a need for jobs or will be providing jobs or will be needing schooling. The fiscal impact will be positive from the County's point of view given the small expense created from the possible tax gain. We have minimized the environmental impact by increasing the size of the lots and minimizing them to only being able to disturb 50% maximum on the lot and having to plant trees and shrubs when they build. We anticipate the commission to find this project acceptable and see this special use to be a positive influence on all these areas of concern.

(8) This project will be filling an existing need to the recreational market. We have seen more and more people wanting their recreational experience to be different than what they might have with small lots down in their cities. They seem to be looking for something larger than 1/2 acre pieces of property. This is not a guess but this information comes from my personal involvement in four subdivisions: Executive acres-I took 45 acres and sub-divided it into five pieces which sold in less than one year with absolutely no marketing. Spring Hollow Ranches- We sold eleven 20 acre pieces over a three month period of time. The people seemed to be overwhelmed a little with 20 acres being too much. Mountain Meadows- I took 32 acres and sub-divided it into an average of six acre pieces. These sold over a three month period of time with no marketing. Elk Hollow Ranches was developed into twenty-seven 2-5 acre pieces. They all sold in a four month period with the only marketing being a classified add in the Salt Lake Tribune. This took place during the months of July-October of this year. The average sells price on these was \$30,000.00. While these lots were being marketed, the owner noticed that the five acre lots appealed to the buyers, but once they got to the lot they seemed to be just as pleased with the 2 to 2 1/2 acre pieces. The buyers didn't realize how big 2 acres are. From this information we see there is an existing market. As of now, we know of no other large lot development that is going in that would inhibit the current market. There still exists hundreds of lots that are for sale in the Bear Lake Area that are 1/2 acre. Those are gradually being eaten up in the market as the market maintains growth. They do not meet the need out there to the people that really want something bigger than what they have in Salt Lake. There are a lot of people that want some elbow room for their recreation home site. The only potential problem, given that most sales come from the Wasatch front, is if the economy has a large slow down. I haven't seen any indicators at all that this would happen. All the experts are seeing growth in this economy at least to the famous 2002 date.



JIM KIMBAL
BEAR LAKE WATCH, INC.
P.O. BOX 145
ST. CHARLES, IDAHO 83272
Telephone: (208)945-2375

Representative for Bear Lake Watch, Inc.

Receipt # 2883
Receipt # E0 2288

RECEIVED

JAN 13 1997

Department of Water Resources
Eastern District Court

Petitioner's Subpoena

BEFORE THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

In The Matter of	)	Protest of
Application for Permit	)	Bear Lake Watch, Inc.
Norman D. Mecham	)	Protestant
Lake Vista Properties, L.L.C	)	
No. 11-07435 and 11-07436	)	

1. Bear Lake Watch, Inc. is a Utah non-profit corporation which was organized in 1994 to protect and restore the environment and waters of Bear Lake. Bear Lake Watch is seeking to assure that the public interest is served when decisions are made that have an impact on the allocation and utilization of Bear Lake's water.

2. The approximately 280 members of Bear Lake Watch live and/or have businesses in the Bear River basin and have a direct and substantial interest in the proceeding.

3. Bear Lake Watch, Inc. believes that the requested groundwater in the County of Bear Lake, such as that proposed by the Applicant, will affect it and it's members by reducing the contribution of groundwater to the surface flow of the Bear River below Bear Lake.

4. Indeed, many of the members of Bear Lake Watch, Inc. have already been directly and negatively impacted by low water levels in Bear Lake, which have resulted, in part, from the huge demand for water from those currently entitled to water in the Bear River basin. As a result, more water may be removed from Bear Lake to meet those downstream demands, thereby lowering Bear Lake further than it would have been without the proposed withdrawals.

5. Further lowering of Bear Lake will greatly impact the members of Bear Lake Watch. It will result in lower property values, negatively affect habitat of five species of indigenous fish, reduce fishing opportunities, cause additional boating problems, reduce business ventures derived from the tourists who flock to a stable and healthy lake environment but stay away from a marshy and mosquito infested waterfront.

WHEREFORE, Bear Lake Watch, Inc. respectfully moves to intervene and protests this application and requests that it be denied.

DATED this 9 day of January, 1997.

BEAR LAKE WATCH, INC.

BY


Jim Kimbal, Board Member & Representative
P.O. Box 145
St. Charles, Idaho 83272
Telephone: (208)945-2375

MAILING CERTIFICATE

On this 9 day of January, 1997, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

Norman D. Mecham
Lake Vista Properties, L.L.C.
2126 Bear Lake Blvd.
Garden City, Utah 84028

Carly Burton
PacifiCorp
1407 West North Temple, Room 199
Salt Lake City, Utah 84140

Randall C. Budge, Esq.
Racine, Olson, Nye, Cooper & Budge
Corner First & Center
P.O. Box 1391
Pocatello, Idaho 83204

Brant Rose, Esq.
Clyde, Snow & Swanson
201 South Main, Suite 1000
Salt Lake City, Utah 84111

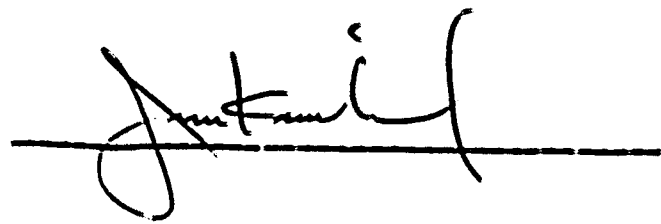
Bear River Water Users Association
c/o J. Kent Horton
587 Wasatch Blvd.
Smithfield, Utah 84335

Randall M. Weiner, Esq.
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

Jody L. Williams, Esq.
Kruse, Landa & Maycock
50 West Broadway
Eighth Floor
Salt Lake City, Utah 84101

Charyl C. Williss
Chief, Division of Water Resources
U.S. Fish & Wildlife Service
P.O. Box 25486
Mail Stop: 60189
Denver Federal Center
Denver, CO 80225

Thomas Graf, Esq.
Office of the Solicitor
Rocky Mountain Region
755 Parfet St. Suite 151
Lakewood, CO 80215





**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**

February 4, 1997

**KARL J. DREIER
DIRECTOR**

**JIM KIMBAL
BEAR LAKE WATCH INC
PO BOX 145
ST CHARLES ID 83272**

**RE: Applications for Permit
11-07435 Norman D. Mecham
11-07436 Norman D. Mecham
11-07437 City of Montpelier**

Dear Protestant:

Your petition to intervene against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) the following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

Page 2

5. Will the proposed use under this permit conflict with the local public interest?

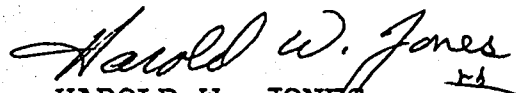
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office



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
February 4, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Applications for Permit No.'s 11-07435 & 11-07436

Dear Applicant:

Enclosed is a copy of a petition to intervene filed against the issuance of the above referenced applications. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

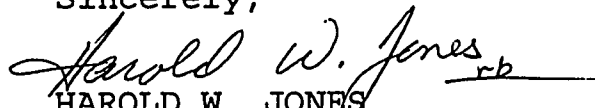
Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code § 42-203):

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

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor
HWJ:rb



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

February 4, 1997

CHERYL C WILLISS
UNITED STATES DEPT OF THE INTERIOR
FISH & WILDLIFE SERVICE
PO BOX 25486
DENVER CO 80225-0486

RE: Applications for Permit
11-07435 Norman D. Mecham
11-07436 Norman D. Mecham
11-07437 City of Montpelier

Dear Protestant:

Your petition to intervene against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) he following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

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3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

Page 2

5. Will the proposed use under this permit conflict with the local public interest?

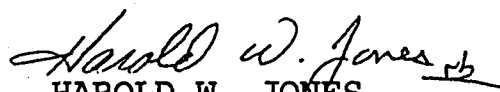
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The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office

KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (300 SOUTH)
SALT LAKE CITY, UTAH 84101-2034
E-mail: jwilliams@kmlaw.com

MAILING ADDRESS
Post Office Box 45561
Salt Lake City, Utah 84145-0561

TELEPHONE: (801) 531-7090
TELECOPY: (801) 531-7091
(801) 359-3954

JODY L. WILLIAMS
WILLIAM N. WHITE

WRITER'S VOICE MAIL
(801) 531-7090 ext. 234

December 24, 1997

RECEIVED

DEC 29 1997

Department of Water Resources
Eastern Region

Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

RE: Permit Nos. 11-07435 and 11-07436

Dear Mr. Jones:

PacifiCorp has reviewed the approved transfer application No. 5134 on Water Right No. 11-07021 filed by Lake Vista Properties, L.L.C. The approved transfer application appears to provide mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River basins under application Nos. 11-07435 and 11-07436. Therefore, PacifiCorp withdraws its protests to the above referenced two applications.

Thank you very much for your help in resolving this matter.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.

Jody L. Williams

Jody L. Williams

JLW:bjw

Cc: Norman Mecham Carly Burton
Randall C. Budge Brent Rose
Randall M. Weiner Jim Kimbal
Thomas Graf Cheryl C. Willis
Bear River Water Users Association

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODSELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER**
JAMES P. PRICE***
LISA M. CHRISTON****
BRENT R. KING
RICHARD A. HEARN, M.D.*****
ERIC L. OLSEN

*ALSO MEMBER IL & WY BARS
**ALSO MEMBER MO BAR
***ALSO MEMBER CO BAR
****ALSO MEMBER IL BAR
*****ALSO MEMBER D.C. BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED

CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FAX (208) 232-6109

ASSOCIATED WITH
McGRATH, MAROTZ
& SMITH
414 SHOUP
P. O. BOX 50731
IDAHO FALLS, ID 83405
TEL (208) 524-0731
FAX (208) 529-4166

STEPHEN J. McGRATH
SCOTT W. MAROTZ
BRYAN D. SMITH†
†ALSO ADMITTED IN CA

December 31, 1997

Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1718

Re: Permit Nos. 11-07435 and 11-07436

Dear Harold:

The Bear River Water Users Association withdraws its protest to the above-referenced applications of Lake Vista Properties, L.L.C., for the reason that the approved Transfer Application No. 5134 on Water Right 11-07021 has provided mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River Basin under these permits.

Sincerely,



RANDALL C. BUDGE

RCB:rr

cc: Jody Williams
D. Brent Rose
Norm Mecham

RECEIVED
JAN 05 1998
Department of Water Resources
Eastern Region



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

January 12, 1998

LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Withdrawal of protest on Applications for Permit
No.'s 11-07435 & 11-07436

Dear Applicant:

This Department has received a withdrawal of protest from Randall Budge of Racine, Olson, Nye, Cooper & Budge on behalf of Bear River Water Users Association. Also, Jody Williams of Kruse, Landa & Maycock, LLC has withdrawn the protest on behalf of PacifiCorp.

Our office will continue to process your application.

If you have any questions, please call our office.

Sincerely,

Harold Jones rb
HAROLD JONES
Water Rights Supervisor

HWJ/rb



Merlin Olsen
President

Warren Lee
Vice President

Mary Evelyn Kimball
Executive Assistant

Richard Strong
Secretary/Treasurer

EXECUTIVE COMMITTEE

Gary Burgener

Russell Cottle

Nard Jacobson

Dick Motta

Phil Olsen

Jerry Phelps

Lyle Tapper

MAILING ADDRESS

P.O. Box 205
Fish Haven
Idaho 83287

January 14, 1998

Mr. Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

RE: Permit Nos. 11-07435 and 11-07436

Dear Mr. Jones:

Bear Lake Watch withdraws its protests to the above referenced two applications. The transfer application No. 5134 appears to provide mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River basins under applications Nos. 11-07435 and 11-07436.

Sincerely,

Bear Lake Watch

Mary Evelyn Kimball

Mary Evelyn Kimball
Executive Assistant

MEIK:meik

CC: Norman Mecham
Randall M. Weiner
Randall C. Budge
Thomas Graf
Bear River Water Users Association

Carly Burton
Brent Rose
Jim Kimbal
Cheryl C. Williss



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region

IN REPLY REFER TO:

BA WTR
WR UT
Mail Stop 60189

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

RECEIVED

JAN 26 1998

Department of Water Resources
Eastern Region

JAN 21 1998

Mr. Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

Dear Mr. Jones:

The Fish and Wildlife Service hereby withdraws its protest to Application for Permit Nos. 11-07435 and 11-07436, filed by Norman D. Mecham. The approved transfer Application No. 5134 on Water Right No. 11-07021, filed by Lake Vista Properties, L.L.C., appears to provide mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River basins under application Nos. 11-07435 and 11-07436.

If you have questions, please contact me at (303) 236-5321 ext. 223.

Sincerely,

Cheryl C. Williss
Chief, Division of Water Resources

cc: Mr. Norman D.. Mecham
2126 South Bear Lake Blvd.
Garden City, UT 84028

Jody L. Williams, Esq.
Kruse, Landa, & Maycock, L.L.C.
Eighth Floor, Bank One Tower
50 West Broadway (300 South)
Salt Lake City, UT 84101-2034



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

February 18, 1998

BEAR LAKE WATCH, INC
PO BOX 205
FISH HAVEN ID 83287

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista
Properties

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by
your Department against the above referenced application.

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

Very truly yours,

Harold W. Jones

Harold W. Jones *by sc*
Water Right Supervisor

HWJ/sc



State of Id.

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

February 18, 1998

US DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
PO BOX 25486
DENVER CO 80225-0486

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista
Properties

Dear Protestant:

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Very truly yours,

Harold W. Jones

Harold W. Jones *by SC*
Water Right Supervisor

HWJ/sc

~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~



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

February 18, 1998

RACINE, OLSON, NYE, COOPER & BUDGE
PO BOX 50731
IDAHO FALLS ID 83405

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista
Properties

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by
your Department against the above referenced application.

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

Very truly yours,

Harold W. Jones
Harold W. Jones *by SC*
Water Right Supervisor

HWJ/sc



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

February 18, 1998

KRUSE, LANDA & MAYCOCK L.L.C.
PO BOX 45561
SALT LAKE CITY UT 84101-2034

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista Properties

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by your Department against the above referenced application.

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

Very truly yours,

Harold W. Jones
Harold W. Jones *by SC*
Water Right Supervisor

HWJ/sc

~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~



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

February 18, 1998

LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Withdrawal of protest on Applications for Permit
No.'s 11-07435 and 11-07436

Dear Applicant:

This Department has received a withdrawal of protest from Randall Budge of Racine, Olson, Nye, Cooper & Budge on behalf of Bear Rier Water Users Association. Also, Jody Williams of Kruse, Landa & Maycock, LLC on behalf of PacificCorp, Cheryl C Williss of Fish and Wildlife Service, and Mary Evelyn Kimball of Bear Lake Watch, Inc.

Our office will continue to process your application.

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

Sincerely,

Harold W. Jones *by sc*
Water Right Supervisor

HWJ/sc



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 3, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Lake Vista Properties, LLC
Norman D Mecham
2126 S Bear Lake Blvd.
Garden City UT 84028

RE: Application for Permit No. 11-07435

Dear Mr. Mecham,

The above referenced application has been sent to the State Office for final review and processing; however, before the application process can continue, I will need some additional information.

The application lists a domestic use for 42 homes, but a subdivision plat identifying the location of these homes was not included with the application. I need the subdivision plat to clarify where water will be diverted. Please provide a subdivision plat identifying the location of the point of diversion, the location of any common or non-domestic areas, as well as the size of each lot.

I will hold further processing on your application for 30 days pending your response. Please submit this information as quickly as possible within the 30-day period to prevent any further undue delay in processing your application.

If you have any questions, you may contact me directly at (208) 327-7944.

Sincerely,

A handwritten signature in cursive script that reads 'Cindy Zimmerman'.

Cindy Zimmerman
Water Resource Agent

MEMORANDUM

DATE: April 24, 1998
TO: File Nos. 11-07435 & 11-07436
FROM: Cindy Lou Zimmerman
SUBJECT: Telecon

This morning I spoke with Norman Mecham of Lake Vista Properties. I requested subdivision plats showing the location of the wells and homes for the above applications. Norman said he could get the plats to me early next week.

Norman said he had received my March 3, 1998 letter. He had not responded because he did not have all plats approved by county as yet. I told him preliminary plats would satisfy my request.

I will hold processing on these application until May 11, 1998 to provide Norman time to submit the plats.

5/11/98

Mr. Meecham called. He will try to get plats out today or tomorrow.
Call-up 5/19/98. cz.

May 15, 1998

Lake Vista Properties
2126 S. Bear Lake Blvd.
Garden City, Utah 84028

Cindy Zimmerman
Idaho DWR
1301 N. Orchard
Boise, Id. 83706

RECEIVED
MAY 20 1998
Department of Water Resources

RE: Application Numbers 7435 and 7436

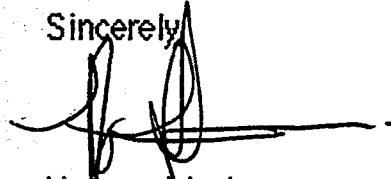
Dear Cindy,

Enclosed you will find subdivision plats for three parcels of property. These properties are contiguous, except for being separated by the two roads, Fish Haven Canyon road and Loveland Lane.

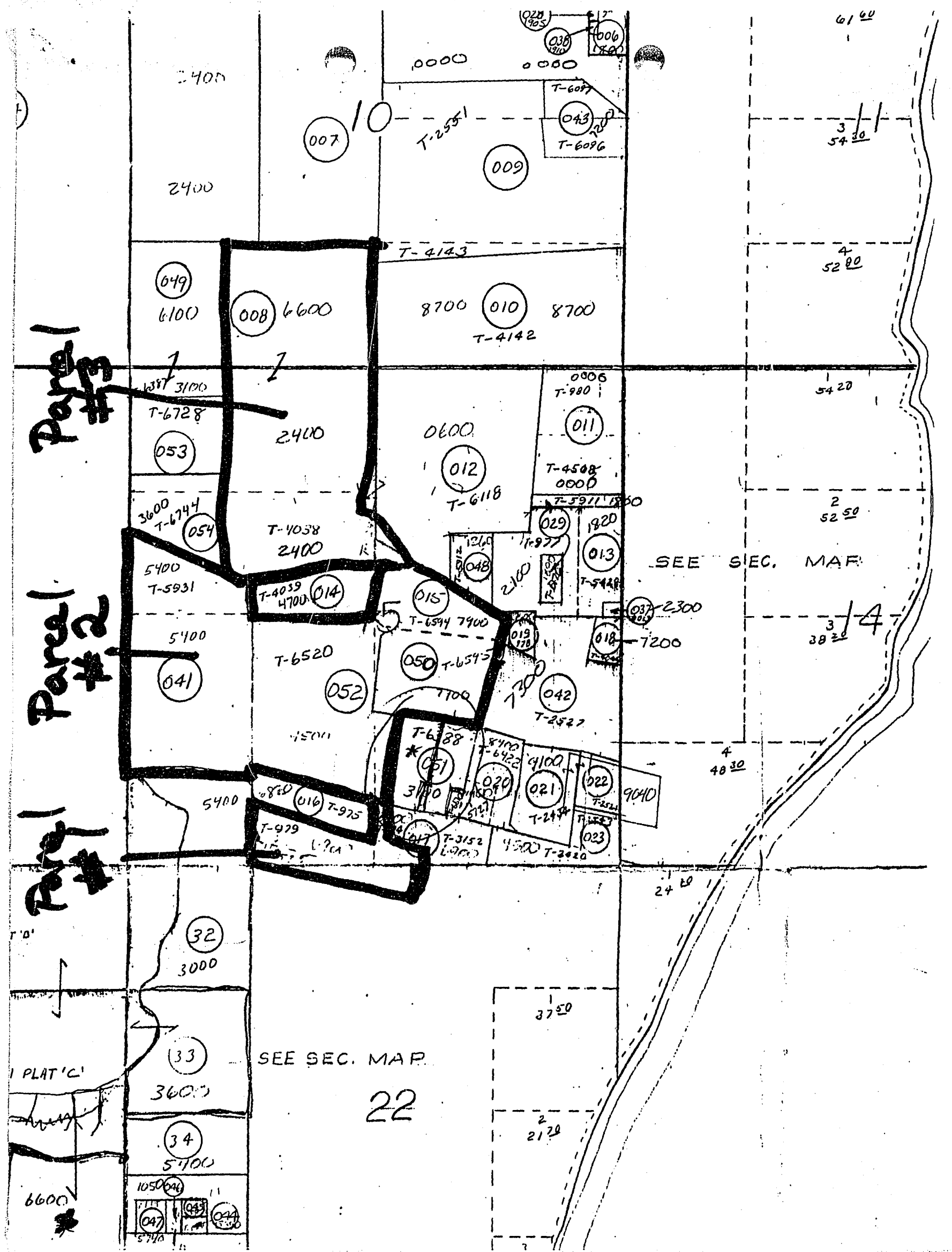
- 11-7436 { Starting from the south, parcel #1, approximately 40 acres, contains an existing well.
This property is south of Loveland Lane, and is planned for 40 lots
Parcel #2, approximately 165 acres, is between Loveland Lane and Fish Haven Canyon road with 65 lots. The well site (application #7436) is toward the west side of this property.
- 11-7435 { Parcel #3, north of Fish Haven Canyon road, is approximately 127 acres and is planned for 42 lots. The well site (application #7435) is toward the west side of this property.

If you have any questions, please call me at (435) 946-8677 work, or (435) 757-6278 cellular. Thank you for your help in this matter.

Sincerely,



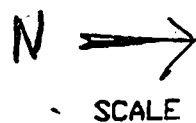
Norman Mecham
Lake Vista Properties, L.L.C.



Parcel #3

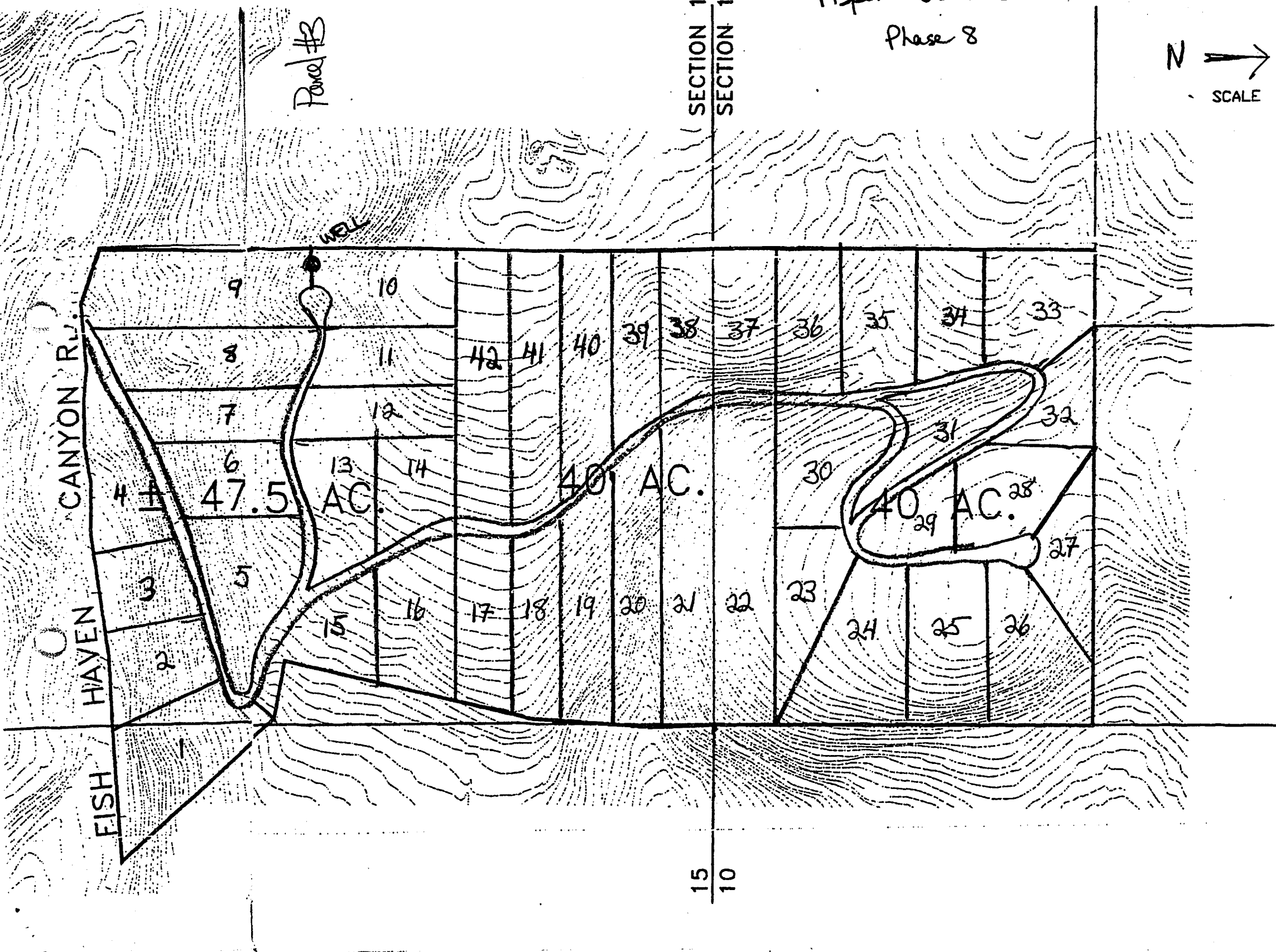
Aspen Creek Subd.
Phase 8

Parcel #3



SECTION 1
SECTION 1

15
10



MEMORANDUM

DATE: May 28, 1998
TO: File Nos. 11-07435 & 11-07436
FROM: Cindy Zimmerman S.
SUBJECT: Telephone Conversation

Per telecon today with Norman Mecham, some lands under these places of use are irrigated with water from 11-04022. Some lands under these places of use are not irrigated.

The claim 11-04022 identifies irrigation of all 40 acres within each tract in Section 15. Per Mr. Mecham, all lands in Section 10 and some lands in Section 15 are not irrigated. Apparently, the place of use identified under 11-04022 is inaccurate.

I have added conditions 065 (must use appertenant surface water) and 079 (cannot move surface water off) to the permit to ensure those land irrigated by surface water will continue to be irrigated by surface water. Mr. Mecham agreed that the conditions would not present a problem since they intend to continue to use the surface water for irrigation where surface water is available.



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

June 1, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NORMAN MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Water Appropriation Applications 11-07435 and 11-07436

Dear Mr. Mecham:

Before IDWR approves your applications to divert ground water for Aspen Creek subdivision, I want to inform you of some of the details of the approval conditions that are being proposed. I have enclosed draft permits for your reference.

Cindy Zimmerman recently called you to inquire about the surface water available for irrigation in Aspen Creek. Conditions 8 & 9 on 11-07436 and 9 & 10 on 11-07435 require you to continue to use the appurtenant surface water when it is available for irrigation in Aspen Creek. This conforms to efforts by IDWR to encourage the continued use of surface water for irrigation.

Also, on each of your two applications you noted that you wished to irrigate up to "1/2 acre per household." However, when determining that twelve acres should be retired under right 11-07021 to mitigate for the depletion that will result from your Aspen Creek development, the calculations were based on the irrigation of 1/10 acre per lot. The 1/10-acre figure came from your statement to Paul Meyer of IDWR that the outdoor use associated with each home would be "very minimal". The twelve-acre figure appears to have been acceptable to the parties who protested your applications. Therefore, the last condition on each draft permit limits the irrigation you can develop from ground water to 1/10 of an acre per lot.

If you have any questions about these conditions, please contact me at 208-327-7946 as soon as possible. If I have not heard from you within ten days, I will forward the permits for approval as drafted.

Respectfully,

Shelley Walter Keen
Water Rights Supervisor

Enclosure

H:\NAMELTRS\mecham.doc

DRAFT

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT NO. P11-07435

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

Priority Date: 11/25/1996
Stage: PERMIT

Source: GROUNDWATER

Beneficial Use	From:	To:	Diversion Rate	Volume
DOMESTIC	01-01	12-31	0.72 CFS	
	Total:		0.72 CFS	

Point(s) of Diversion: NWNW, Sec. 15, Township 16S, Range 43E

Place(s) of Use: DOMESTIC

Twp:	Rng:	Sec:	Tract: Acres:	Tract: Acres:	Tract: Acres:
16S	43E	10	SWSW	SESW	
		15	NENW	NWNW	SWNW
			SESW		

Conditions of Approval and Remarks:

1. Proof of construction of works and application of water to beneficial use shall be subitted on or before June 1, 2003.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. Point of diversion is located between Lots 9 & 10, Aspen Creek Subdivision, Phase 8.
7. Places of use are located within Lots 1-42, Aspen Creek Subdivision, Phase 8.
8. Domestic use is for 42 homes.
9. The right holder shall use the full allotment of appurtenant surface water irrigation rights in conjunction with groundwater diverted under this right for irrigation purposes.
10. This right shall not be used for irrigation purposes if the surface water irrigation right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
11. The irrigation occurring from ground water under this domestic right shall not exceed 1/10 acre within each platted subdivision upon which a home has been constructed. This right does not provide for the irrigation of common areas or for irrigation of lots upon which homes have not been constructed.

05/29/1998 15:01 2085257177
AUG-06-97 11:33 From: KRUSE, L. & MAYCOCK

IDWR EASTERN
18015317091

PAGE 02
T-468 P.01/11 Job-140

KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (300 SOUTH)
SALT LAKE CITY, UTAH 84101-2034

TELEPHONE: (801) 531-7090
TELECOPY: (801) 359-3954

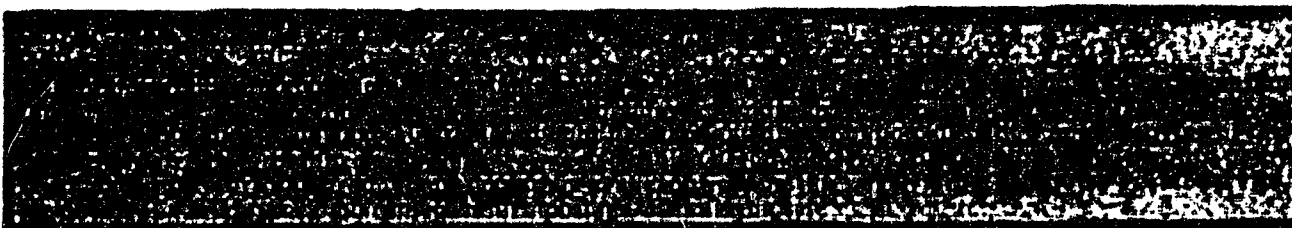
FACSIMILE TRANSMISSION SHEET
Xerox 7032 (CCITT Group 2 and Group 3)
(801) 359-3954

DATE: August 6, 1997 TIME (MDT): _____
MESSAGE TO: Harold Jones / Paul Meyer
FIRM: Idaho Dept. of Water Resources - Eastern Region
FAX NUMBER TRANSMITTED TO: 1-208-525-7177
NO. OF PAGES (INCLUDING THIS COVER SHEET) 7
FROM: Jody L. Williams
KLM CLIENT FILE NO: 7017.00

**FOR QUESTIONS AND/OR PROBLEMS WITH RESPECT
TO THIS FACSIMILE TRANSMISSION
PLEASE CONTACT:**

Barbara Wallin

AT (801) 531-7090



- | | |
|---|--|
| ☐ FOR YOUR INFORMATION | ☐ FOR NECESSARY ACTION |
| ☐ FOR REVIEW AND COMMENT | ☐ ORIGINAL TO FOLLOW BY STANDARD MAIL |
| ☐ PER OUR CONVERSATION | ☐ ORIGINAL TO FOLLOW BY OVERNIGHT COURIER |
| ☐ PER YOUR REQUEST | ☐ SEE COMMENTS BELOW |

COMMENTS/SPECIAL INSTRUCTIONS:

Here is a draft report on how the protestants to the Bear
River filings are calculating depletion. Bob Hill
will call you to discuss. Thanks - Jody

05/29/1998 15:01 2085257177
AUG-06-97 11:33 From: KRUSE, L. & MAYCOCK

IDWR EASTERN
18015317081

PAGE 03
T-468 P.02/11 Job-140

**Procedures for Estimating Depletion
of
Municipal, Dairy and Agricultural
Crop Water Use
in the
Lower Bear River Basin in Idaho**

**Prepared for presentation at Public Hearings
July 2, 1997 in Preston and Soda Springs, Idaho**

**Submitted to Jody Williams,
Representing Pacific Corp**

by

**Robert W. Hill, P.E.
Logan, Utah**

July 1, 1997

Procedures for Estimating Depletion of Municipal, Dairy and Agricultural Crop Water Use in the Lower Bear River Basin in Idaho

I. Introduction

Surface and ground waters tributary to the Bear River are considered to be equivalent in the apportionment of water under the Bear River Compact (as amended, 1980). The hydraulic interconnection between surface and ground water in the Bear River Basin in Idaho was described by Dion (1969) when he said "... water level ... contours show that ground-water movement in Bear Lake Valley is toward the Bear River. For this reason, most of the natural discharge of the ground water is into the river". He further stated that:

(in Cache Valley) ... the contours indicate that the general direction of ground-water movement is both toward Bear River and southward into the Utah part of the valley. The multitude of small springs and seeps along the banks of the river provides additional evidence that the ground water discharges into Bear River.

(In Gentile Valley) ... Ground water movement is toward the Bear River and discharge is through hundreds of small springs and seeps along the banks of the river.

The principal direction of ground-water flow in Soda Creek basin is ... toward the Bear River and Soda Point Reservoir

A study in the Bancroft-Lund Area of Gem Valley (Higginson, 1991) indicated that some decrease in well discharge "has been caused in part by the rate of withdrawal of water from those wells, the construction and design characteristics of those wells, and the aquifer material in which the wells are completed". This report continued "The ground water gradients indicate that a decrease in the level of ground water tributary to the Bear River would affect the flow of the Bear River and springs in the Bear River Basin".

Dion (1969) summarized that "... the aquifers in the Bear River basin are generally in direct hydraulic connection with the streams ... and ground water is discharged from the

aquifers into the streams". In these areas "... withdrawal of ground water affects the streamflow. Pumping of wells causes stream depletion by either increasing the amount of water moving from nearby streams to the wells or by decreasing the natural ground-water flow that would have discharged into the streams if the wells had not been pumped".

In a recent study of the hydrology of Cache Valley by Kariya, Roark and Hanson (1994) the geology of the valley floor was characterized as being mostly "unconsolidated basin-fill deposits of Quaternary age ... and younger alluvium". The older Salt Lake Formation is evident in the foothills around the valley. Dion (1969) similarly describes the bottomlands of Bear Lake, Gentile and Cache Valleys as consisting of Quaternary alluvium with out-crops of the Salt Lake Formation along the valley margins. Ground water occurs in the alluvium and to a lesser extent in the Salt Lake Formation. It also occurs in the basalt of Gem Valley and Soda Creek basin. Kariya, Roark and Hanson (1994) also described the interconnection between surface-water and ground-water systems. They demonstrated through the use of a ground-water-flow model that "... in Cache Valley, increased withdrawal of ground water could decrease the volume of ground-water discharge to the surface-water system and therefore is of concern to surface-water users".

Depletion of water by agricultural and other uses forms the basis for water rights accounting within the Bear River Basin (Amended Bear River Compact). Hydrologic realities on the Bear River below Bear Lake mandate that a careful accounting be made of any and all appropriated waters. Thus, depletions must be determined for any new applications to appropriate in order to fulfill the accounting requirements.

Depletions for municipal and dairy water use were derived from consideration of current practices and comparison with actual use patterns in Cache Valley and elsewhere. Depletions for agricultural water use were calculated based on the "Bear River Commission Approved Procedure". The methodology for developing water use and depletion estimates for Caribou and Franklin County, Idaho areas in the Bear River Basin is described hereafter.

II. Estimation of Municipal Diversions and Depletions

Estimates of non-irrigation depletion of culinary water vary from two to ten percent assuming non-consumptive disposal of waste water, although some "losses" may be as high as 30 percent. The culinary (non-irrigation) depletion could be as high as 100 percent in containment, or lagoon, type waste water disposal systems.

The major source of depletion of culinary water use is irrigation of lawns, gardens, trees and ornamentals during the summer months. This is related to evapotranspiration (ET) rates (such as in Hill, 1994) and irrigation method. Assuming sprinkle irrigation and mild to moderate wind conditions (in a small community), the evaporation loss from water droplets in the air would be at least 10 percent of delivered water. This should be added to the ET minus effective rainfall (net irrigation requirement) to estimate depletion. The estimated municipal irrigation depletion is equal to the irrigated area multiplied by the quantity of consumptive use minus effective rainfall.

Calculated values of irrigation diversion and depletion are made for specific sites as described in water right applications. The estimated annual irrigation related depletion represents a loss of water to the flows in the Bear River. An additional depletion would accrue from the culinary water connections assuming five percent loss of the total gallons/day per connection plus any waste water disposal depletion. Additional depletion would also accrue from stock watering (if any) out of the culinary water supply.

III. Estimation of Dairy Water Supply Requirements and Depletions

Depletion associated with a dairy operation includes water in milk sold, evaporation of wash and flush water and evaporation of water in animal wastes. For a herd on pasture, with solid waste handling, or in a confined situation with total waste containment and lagoon treatment the depletion would essentially be 100 percent of the supply water. However, with a slurry manure handling operation and land application, ten percent return flow may occur. In

either case the supply water right should be of a sufficient quantity to satisfy the requirements in peak use months of July and August.

The current concern about water quality has led to regulatory agency policy insisting on no surface runoff of animal wastes and moving toward a policy of zero deep percolation into ground water. The implementation of such policy will bring about 100 percent depletion of dairy supply water.

IV. Estimations of Agricultural Water Depletions

The Amended Bear River Compact specifics (Articles V.C.; VI.B. and VI.C.) that depletions shall be determined by a Bear River Commission "Approved Procedure." These procedures are defined in "Amended Bear River Compact, Commission - Approved Procedures," November 1993. The depletion calculations are based on the procedure developed in the Bear River Commission funded research project "Duty of Water under the Bear River Compact: Field Verification of Empirical Methods for Estimating Depletions," (Hill, et al., 1989). In that report we calculated agricultural depletion as the water year evapotranspiration less the sum of carryover soil moisture and effective precipitation. Estimated depletion, which accounts for the effect of winter and summer precipitation and evapotranspiration, thus represents a net irrigation requirement at 100 percent irrigation efficiency. Estimates of depletion for specific sites was based not on a subbasin weighted average crop mix but rather on the crops being irrigated.

Additional depletion would accrue from evaporation losses if sprinkler irrigation is used and from evaporation from any open water surfaces. If the application were for supplemental water use on a crop such as alfalfa, a prorated depletion increase would be determined. The supplemental depletion factor is derived from the relationship of alfalfa yield to evapotranspiration reported by Hill (1983).

REFERENCES

- Dion, N. P. 1969. *Hydrologic reconnaissance of the Bear River Basin in southeastern Idaho*. Water Inf. Bull No. 13. USGS in cooperation with Idaho Dept of Reclamation. October.
- Higginson, R. K. 1991. Director's Report for the Bancroft-Lund Area. Civil Case No. 2919. In the District Court of the Sixth Judicial District of the State of Idaho, in and for Caribou County. November.
- Hill, R.W. 1983. Alfalfa yield and water use in commercial fields, *Proceedings ASCE Irrigation and Drainage Division Specialty Conference*. July 20-22. Jackson, WY.
- Hill, R.W., C.E. Brockway, R.D. Burman, L.N. Allen, and C.W. Robison. 1989. *Duty of water under the Bear River compact: field verification of empirical methods for estimating depletion*, Final Report, Utah Agricultural Experiment Station Research Report No. 125, Utah State University, Logan, UT. January.
- Hill, R.W. 1994. *Consumptive use of irrigated crops in Utah*, Utah Agricultural Experiment Station Research Report No. 145, Utah State University, Logan, UT, Oct.
- Kariya, K.A., D.M. Roark, and K.M. Hanson. 1994. *Hydrology of Cache Valley, Cache County, Utah, and adjacent part of Idaho, with emphasis on simulation of ground-water flow*. Tech. Pub. No. 108, Utah Dept. Nat. Res. SLC, Ut.

**Procedures for Estimating Depletion of Municipal, Dairy and
Agricultural Crop Water Use in the
Lower Bear River Basin in Idaho**

SUPPLEMENT

Estimation of Municipal Diversions and Depletions

Actual diversions for domestic use (excluding irrigation) vary from about 100 to 128 gallons/day per person based on experience in several Utah towns and cities. If an average connection served 3.5 persons, the estimated diversion would be about 390 gallons/day per connection (using 111 gallons/day per capita).

The estimated municipal irrigation depletion (ac-ft) is equal to the irrigated area in acres multiplied by the quantity, in inches, of consumptive use minus effective rainfall divided by 12, with this total being further multiplied by the factor 1.15 to account for evaporation losses from using sprinkler irrigation. In equation form:

$$\text{Depletion} = \text{acres} \times (\text{ET} - \text{Effective Rain}) \times 1.15/12$$

where ET is evapotranspiration (consumptive use) for the weighted crop mix (say, 60 percent turf and 40 percent garden) obtained from published reports (such as Hill, 1994); Effective Rain is assumed to be 80 percent of average monthly precipitation and the adjustment factor 1.15 represents the estimated 10 percent evaporation loss for delivered sprinkler supply with an assumed irrigation application efficiency of 65 percent.

The actual area irrigated in a given community in the Bear River Basin from the culinary water supply depends on what other water supply may be available for irrigation and likely varies from spring to summer. In the springtime and early summer, when flow from streams and springs is high, culinary water is probably used for irrigation on a smaller area than later in July as stream flow is diminished and residents wish to maintain lawns and gardens. This trend toward watering more area with culinary supplies would be more pronounced in droughts as experienced in the past several years. However, assuming an average lot size irrigated with each connection gives an estimated area in acres.

Estimation of Dairy Water Supply Requirements and Depletions

Depletion of ground water appropriation applications for dairy stock water is based on estimates of the number of animals now being served or as yet anticipated. Supply requirements and depletion estimates were developed for an assumed "typical" dairy herd with an average of 100 lactating cows plus associated dry cows (22), replacement heifers (74, 6-15 month old) and young heifer calves (37, newborn to six months). Estimates for an assumed 100 lactating cow dairy herd are based on 10 month lactation producing 19,000 pounds of milk (6.8 gallons water/day). Depletion of culinary water assumes export of water in milk,

complete evaporation of wash water (8 gallons/head/day, assumes no recycling) plus evaporative loss of 90 percent of water in animal waste.

The estimated annual requirements were 84 acre-inches. This is equivalent to 0.030 ac-ft per animal per year, or about 26.7 gallons per day per animal. Assuming only 90 percent depletion of animal waste water (and 100% depletion of water in milk), the estimated annual total depletion is 77 acre-inches for the 233 animals associated with a 100 lactating cow dairy herd. This is equivalent to 0.028 ac-ft per animal per year.

The depletion of culinary water for a dairy operation is at least the 77 acre inches (for a 100 cow milking herd) and in the foreseeable future may become all of the supply, or 84 acre-inches per year.

Estimations of Agricultural Water Depletions

Agricultural depletion was calculated as the water year evapotranspiration less the sum of carryover soil moisture and effective precipitation. Estimated depletion, which accounts for the effect of winter and summer precipitation and evapotranspiration, thus represents a net irrigation requirement at 100 percent irrigation efficiency. In equation form:

$$Dpl = E_t - SM_{co} - P_{ef} \quad (1)$$

where Dpl is estimated depletion for a given site or subbasin; E_t is calculated cropwater use from one of the calibrated empirical E_t equations; SM_{co} is moisture which is "carried over" from the previous non-growing season (Oct 1 - April 30) as stored soil water in the root zone available for cropwater use subsequent to May 1; and, P_{ef} is an estimate of that portion of precipitation during May - September which could be used by crops.

Growing season precipitation was considered to be 80 percent effective in contributing to crop water use. The effectiveness factor of 80 percent allows for precipitation depths throughout a subbasin that might differ from National Weather Service rain gage amounts. It also includes a reduction for mismatches in timing between rainfall events and irrigation scheduling.

Average crop water use, growing and non-growing season precipitation and depletion for alfalfa and pasture are shown in the table at the top of the next page for Soda Springs and Cache Valley. Alfalfa E_t is 27.7 and 29.9 inches, respectively in the Soda Springs area and Cache Valley; corresponding depletions are 16.4 and 16.7 inches.

Crop water use, E_t , was a weighted average for the several crops in a given subbasin. E_t for each crop was multiplied by that crop's fraction of total irrigated crop area. These "weighted" E_t values for all crops were then added to determine the weighted average subbasin E_t .

**Average Crop Water Use (Et) and Growing and Non-growing Season
 Precipitation (1976-1987 Water Years) for Soda Springs and Cache Valley
 Subbasins of the Bear River.**

Subbasin	Precipitation		Annual Total	Useable*	Consumptive Use		Depletion	
	Oct-Apr	May-Sep			Alfalfa	Pasture	Alfalfa	Pasture
	Inches	Inches	Inches	Inches	Inches	Inches	Inches	Inches
Soda Springs	8.64	8.28	16.92	11.3	27.7	21.0	16.4	9.7
Cache Valley	12.51	8.21	20.72	13.2	29.9	23.6	16.7	10.4

*Usable precipitation includes winter carry-over soil moisture and effective growing season rainfall. Source: Table 14 and Appendix E of Hill, et al., 1989.

The carry-over soil moisture (SM_{co}) was estimated by assuming that 67 percent of adjusted precipitation from October through April could be stored in the root zone. If this exceeded 75 percent of the available soil water-holding capacity of the average root zone in the subbasin, the excess was considered as lost to drainage or runoff and not available for crop use. Adjusted precipitation was equal to total precipitation minus 1.25 times any calculated E_t occurring during October-April. This adjustment ($1.25 E_t$) for crop water use during the "non-growing" season was consistent with how effective precipitation was estimated in the growing season. The growing season was assumed to be May 1 through September 30. Thus, some E_t occurs in the non-growing season, particularly in the lower subbasins.

Depletions were calculated with Equation (1) for the 11 subbasins of the Bear River for 12 water years (1976-1987) as given in Table 15 of Hill, et al. (1989). Table 15 was subsequently included in the commission-approved procedure as Appendix B (denoted as CAP-B hereafter). The weighted annual average depletion for Soda Springs and Cache Valley subbasins are shown as 1.01 and 1.00 acre-feet/acre, respectively, in CAP-B.

The seasonal alfalfa ET value of 29.9 inches for Cache Valley closely matches the 2.5 feet (30 inches) alfalfa crop water use of IDWR (H. Jones, personal communication, Nov. 1995). However, IDWR's 2.5 feet ET for Soda Springs is about 8.3 percent higher than the 27.7 inches of Hill, et al. (1989). IDWR assigns a 3.5 ac-ft/acre duty of water to both subbasins; whereas, the Utah Division of Water Rights assigns a duty of 4.0 ac-ft/acre in Cache Valley (W. Atkin, personal communication, Nov. 1995).

Derivation of Supplemental Irrigation Depletion Factor

In a study of crop water use and alfalfa yields in farm fields in central Utah (Millard and Iron Counties) Hill (1983) derived the following relationship:

$$\text{Yield} = -0.765 + 0.243 \text{ ET} \quad (a)$$

where yield is alfalfa yield, ton/acre, field dry (12 percent moisture) and ET is seasonal crop water use, inches. This is equivalent to 4.7 inches of ET per ton/acre at a yield level of 5.5 ton/acre.

To determine a prorated depletion for yield increases from supplemental irrigation, a supplemental factor, Splf is defined as:

$$\text{Splf} = (\text{Et full} - \text{Et deficit}) / \text{Et full} \quad (b)$$

where Et full is crop water use (evapotranspiration) associated with yields obtained with a full water supply and Et deficit is evapotranspiration associated with yields under deficit or limited irrigation supply.

As an example, if deficit condition yields are four ton/acre and full supply yields are seven ton/acre then Et full would be 32 inches ($32 = (7 + 0.765) / 0.243$) and Et deficit would be 19.6 inches ($19.6 = (4 + 0.765) / 0.243$) by solving Eq (a) above for Et. Thus, the supplemental factor becomes: $\text{Splf} = (32 - 19.6) / 32 = 0.39$.

05/29/1998 15:01 2085257177
- AUG-05-97 11:40 From: KRUSE, LANDA & MAYCOCK

IDWR EASTERN
10015317001

PAGE 13
T-435 P.01/02 Job-102

KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (500 SOUTH)
SALT LAKE CITY, UTAH 84101-2034

TELEPHONE: (801) 531-7000
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FACSIMILE TRANSMISSION SHEET
Xerox 7032 (CCITT Group 2 and Group 3)
(801) 359-3954

1248
FAX
801-797-2791
John Will

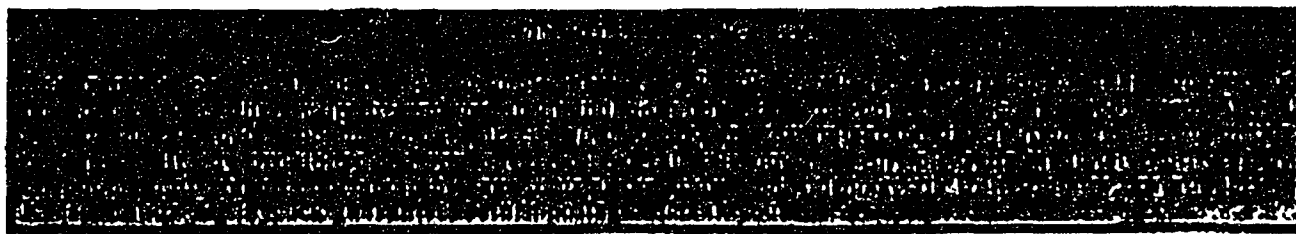
DATE: August 5, 1997 TIME (MDT): _____
MESSAGE TO: Paul Meyers
FIRM: Idaho Dept. of Water Resources - Eastern Region
FAX NUMBER TRANSMITTED TO: 1-208-525-7177
NO. OF PAGES (INCLUDING THIS COVER SHEET) 2
FROM: Jody L. Williams
KLM CLIENT FILE NO: 7017.00

FOR QUESTIONS AND/OR PROBLEMS WITH RESPECT
TO THIS FACSIMILE TRANSMISSION
PLEASE CONTACT:

Barbara Wallin

AT (801) 531-7090

BOB H Q EXT.
USD. EDU



- | | |
|--|--|
| ☐ FOR YOUR INFORMATION | ☐ FOR NECESSARY ACTION |
| ☐ FOR REVIEW AND COMMENT | ☐ ORIGINAL TO FOLLOW BY STANDARD MAIL |
| ☒ PER OUR CONVERSATION | ☐ ORIGINAL TO FOLLOW BY OVERNIGHT COURIER |
| ☐ PER YOUR REQUEST | ☐ SEE COMMENTS BELOW |

COMMENTS/SPECIAL INSTRUCTIONS:

8-3-97 Norman Meham applications

Calculations for 105 houses of Resort Domestic Use

Assumed an average household of 4 persons and a total of 400 gallons per day for indoor use. Occupancy rates were assumed to be, based on conversations with Norman Meham, 10% year round plus additional 25% every weekend during October through April, and additional 40% continuous during May through September plus additional 45% weekend occupancy during May through September. Equivalent Annual Household Days is 13,944 days.

$$(13,944 \approx 105[0.1 \times 365 + 0.25 \times 61 + 0.4 \times 153 + 0.45 \times 44]) \approx 105[132.8]$$

Corresponding annual indoor diversion is 17.1 af. Assuming 10% indoor depletion and 23% depletion of wastewater, this is 5.2 af depletion of non-outside use.

For outdoor use, based on Norman Meham's representation that it was "very minimal," we assumed 0.1 acre of trees, shrubs, turf and garden, for each household. We calculated the depletion based on conditions similar to an outdoor use on another application in the area, i.e., 14.3 inches. TREES SHRUBS ETC ON STUDY

$$(12.5 - 0.1 \times 105 \times 14.3 / 12)$$

Annual depletion for the 105 houses is 17.7 af ($17.7 = 5.2 + 12.5$)

For 65 houses, the depletion is proportionately reduced: $65/105 \approx 11.0$ af annually. This is equivalent to 7.3 acres of pasture depletion and the annual diversion reduction of 27.4 af.

NOTE THE DISTINCTION BETWEEN DEPLETION AND DIVERSION

33-12=21 af
 $65/7.3 = 105/12$
40%
14.3
11.8
12

FIELD VERIFICATION FOR IMPECCAL

EST DEPLETION

JAN 31 '89

11.25

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.



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

June 16, 1998

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

PERMIT APPROVAL NOTICE

RE: PERMITS 11-07435/11-07436

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permits authorizing you to establish new water rights. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permits are preliminary orders issued by IDWR pursuant to section 67-5243, Idaho Code. They can and will become final orders without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

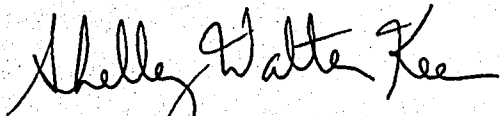
As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this right were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this

Department. Please contact the Groundwater Protection Section located here at this office or our regional office nearest you.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:klt

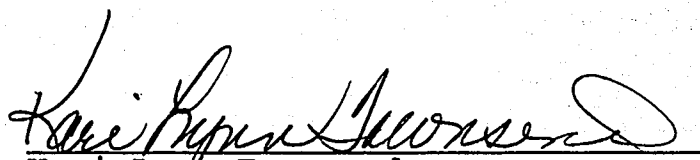
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of June, 1998, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Rights 11-07435/11-07436

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028


Kari Lynn Townsend
Secretary



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

January 7, 1997

RANDALL C BUDGE
RACINE OLSON NYE COOPER &
BUDGE CHARTERED
PO BOX 1391
POCATELLO ID 83204-1391

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

Your protests against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) he following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

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JUL 30 1998

Page 2

5. Will the proposed use under this permit conflict with the local public interest?

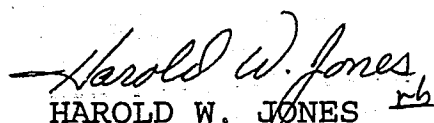
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office

May 17 99 11:04a

Doug Johnson

561-7437059

p. 2

DOUGLAS A. JOHNSON

128 Beach Summit Court
Jupiter, FL 33477

Phone (561) 743-6748
Fax (561) 743-7059

15 May, 1999

Shelly W. Keen
State of Idaho Dept. of Water Resources
1301 North Orchard Street
Boise, ID 83720-0098

Dear Ms. Keen,

I have been assigned permit # 11-07435 by Lake Vista Properties, LLC. I would like to verify with you whatever action I may need to take to make sure that my permit remains in full force and effect. I am concerned with "conditions of approval and remarks" # 3. This condition states: "Project construction shall commence within one year from the date of permit issuance..."

I have been very diligent in trying to keep my project moving along but have run into many delays with planning and zoning (4 separate meetings required) subsequent engineering and easement requirements, and finally appearance before the County Commissioners. All of these hurdles, which were beyond my control, had to be crossed before I could start with construction of, or drilling of my well.

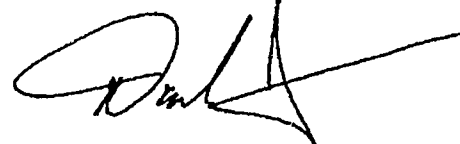
It appears to me that the initial permit was issued to Lake Vista Properties, LLC on June 15th, 1998. Please advise me what action is required on my part, if any, to keep this permit in full force and effect.

561-743-6748

Doug Johnson
128 Beach Summit Ct
Jupiter FL 33477
~~Ext if time~~

11-07435

Sincerely,



Douglas Johnson



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 18, 1999

Douglas A. Johnson
128 Beach Summit Court
Jupiter, FL 33477

RE: PERMIT NO. 11-07435 IN THE NAME OF NORMAN D. MECHAM

Dear Mr. Johnson:

I have reviewed your letter dated May 15, 1999, which you sent by fax to Shelley Keen of this office. Enclosed is an Assignment of Permit form which you need to complete and return to this office with a fee of \$25 to change department records to show that you now own the permit which was issued to Norman Mecham.

Condition of Approval no. 3 on the permit which requires the start of construction within a year unless prevented by delays over which the permit holder had no control is required by statute. The department does not automatically void or cancel a permit if the condition is not met. A third party could raise the issue at which time the department would request specific information relative to the circumstances associated with the start of construction.

The permit presently is in good standing with the department. Condition of Approval No. 1 requires that you submit proof of construction of works and application of water to beneficial use ("proof") to the department on or before June 1, 2003. Proof is a term which refers to a document which you will need to file with the department on or before the proof due date or extended date if the department approves a future extension of time.

If you have other questions, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

Encl: Assignment form

c: IDWR - E. Region
Norman D. Mecham

May 17 99 10:11a

Doug Johnson

5617437059

RECEIVED

JUN 14 1999

Department of Water Resources

5754

For Office Use Only
\$25.00 Filing Fee
Receipt # 6045726
Date 6/14/99

State of Idaho
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT
To change the ownership of a permit

I, Lake Vista Properties, LLC, hereby assign to Doug Johnson
(Permit Holder)
of 128 Beach Summit Court, Jupiter, Florida 33477 (561) 743-6748
(Full Address and Phone Number)

All my right, title, and interest in and to Permit No. 11-07435
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to
Permit No. _____ to appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision,
point of diversion location, and the amount of water in cubic feet per second.

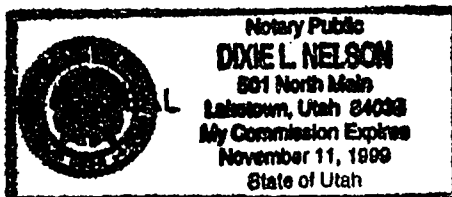
Made this 7 day of May June 1999

Lake Vista Properties, LLC

By [Signature]
Member/Manager Permit Holder(s)

State of UTAH
County of Rich

On this 7 day of June, 1999, personally appeared before me
the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.



My commission expires: 11-11-99

Dixie L. Nelson
Notary Public - Signature
DIXIE NELSON
Notary Public

DOUGLAS A. JOHNSON

RECEIVED

JUN 14 1999

Department of Water Resources 128 Beach Summit Court
Jupiter, FL 33477

Phone (561) 743-6748

Fax (561) 743-7059

MR. JOHNSON:

HERE IS MY ASSIGNMENT OF PERMIT.
AND \$25. CHECK. I'LL COME LATER TO
MAKE SURE YOU GOT IT. AND EVERYTHING
IS IN ORDER.

THANKS

Doug Johnson



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

June 14, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DOUG JOHNSON
128 BEACH SUMMIT COURT
JUPITER FL 33477

RE: ASSIGNMENT OF PERMIT 11-07435

Dear Mr. Johnson:

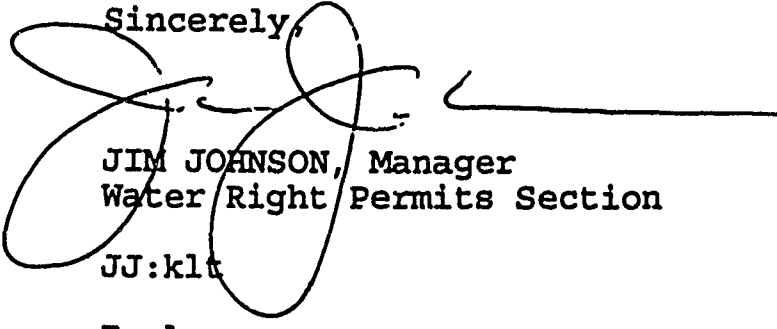
We acknowledge receipt of the correspondence changing ownership of the above referenced water right to you. We have modified our computer records to reflect this change in ownership. A computer generated report is enclosed for your information.

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.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt

Enclosure