

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 37-1208
Date Received: 9/16/1988
Receipt No: S002206
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CITY OF BELLEVUE Phone: (208)788-2128
PO BOX 449
BELLEVUE ID USA 83313-0449

Amended

2. Date of Priority: 7/20/1880

3. Source: SPRINGS Trib. to: SEAMANS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02N	19E	34	NW NW	BLAINE	
02N	19E	33	NE NE	BLAINE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
MUNICIPAL	/	/	3	

7. Total Quantity Appropriated is:
3 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
MUNICIPAL					

11. Place of use in counties:

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

Place of use is within the service area of the City of Bellevue municipal water supply system as provided for under Idaho Law.

all
SCANNED
DEC 03 2021

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PRIORITY DATE NOT DECREED; DATE SHOWN IS DECREE DATE.

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

15. Basis of Claim: Decreed

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am Mayor of
the City of Bellevue, Idaho, that I have signed the foregoing
Organization Title
document in the space below as Mayor of
the City of Bellevue, IDAHO and that the statements contained in the
Organization Title
foregoing document are true and correct.
Signature of Authorized Agent
Mayor, City of Bellevue, IDAHO
Title and Organization
7/10/07
Date

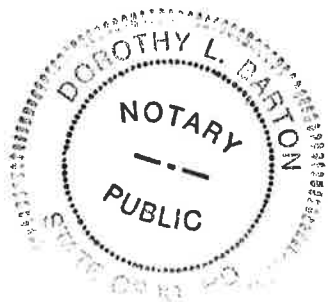
State of Idaho)
County of Blaine) SS.

Subscribed and sworn (or affirmed) before me this 10th day of July 2007

Dorothy L. Barton

Notary Public

Residing at Richfield, ID
My commission Expires 01-09-2008



COPY

HAEMMERLE & HAEMMERLE, P.L.L.C.

Attorneys & Counselors at Law

Fritz X. Haemmerle
Jennifer L. K. Haemmerle

P. O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

RECEIVED

JUL 16 2007

DEPT. OF WATER RESOURCES
SOUTHERN REGION

July 13, 2007

IDWR Southern Region
c/o Kelly K. Christensen
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380

Re: Amended Claim (37-1208 – City of Bellevue)

Dear Kelly:

Please find enclosed an Amended Claim in 37-1208. If there is anything else you require, please advise.

As always, thank you for your assistance.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.



Fritz X. Haemmerle

FXH: fxh

Encl.

cc: Tom Blanchard, City Administrator
Jim Phillips, City Attorney

SEP 13 1988

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

Ident. Number: A37-01208

Date Received: 8/02/1988

Receipt No: 5002206

Received By: W

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SEP 2 1988

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NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

1. Name: CITY OF BELLEVUE
Address: BOX 267
BELLEVUE, ID

83313-0000

208 SEP 13 1988

Department of Water Resources
Southern Region Office

2. Date of Priority: NOV 09, 1885

3. Source: SPRINGS

Trib. to: SEAMANS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
02N	19E	33		NE	NE		BLAINE
		34		NW	NW		BLAINE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
MUNICIPAL			3.000		

7. Total Quantity Appropriated is:
3.000 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
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11. Place of use in counties:

12. Do you own the property listed above as place of use? YES

A37-01208

Page

1

Date: 08/02/88

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FEB 23 1993

13. Other Water Rights Used:

14. Remarks:

P. U. IS ASSUMED TO BE WITHIN CITY LIMITS OF BELLEVUE.
PRIORITY DATE NOT DECREED; DATE SHOWN IS DECREE DATE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

CITY OF BELLEVUE

Decree Plaintiff

vs

GOBLE, ET. AL.

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am Mayor of Bellevue, Idaho Title

Organization

, that I have signed the foregoing document in the space below as Mayor of Title

Bellevue, Idaho

Organization

and that the statements contained in the foregoing document are true and correct.

Wayne H. Douthett
Signature of Authorized Agent

Mayor, Bellevue, Idaho

Title and Organization

9-6-88

Date

State of Idaho)
County of Blaine) SS.

Subscribed and sworn (or affirmed) before me this 6th day
of Sept 19 88

Annette Coy
Notary Public

Seal

Residing at Hailey, Idaho
My Commission Expires 12-30-93

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER

Chartered

ATTORNEYS AT LAW

142 3rd AVENUE NORTH

P.O. BOX 1906

TWIN FALLS, IDAHO 83303-1906

TELEPHONE (208) 734-0700

FAX (208) 736-0041

THOMAS G. NELSON
JOHN A. ROSHOLT
J. EVAN ROBERTSON
STEVEN K. TOLMAN
JAMES C. TUCKER
TERRY T. UHLING
TERRY R. McDANIEL
F. BRUCE COVINGTON
JERRY JENSEN
GARY D. SLETTE
CAROLYN M. MINDER
BRUCE M. SMITH
G. RICHARD BEVAN
BRAD M. PURDY
GARY L. QUIGLEY
TIM J. WILLIAMS

Boise Office
1020 MAIN ST., SUITE 400
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED

July 27, 1989

JUL 28 1989

Department of Water Resources
Southern Region Office

Idaho Department of Water Resources
Attn: Loren Holmes
2148 Fourth Ave. East
Twin Falls, ID 83301

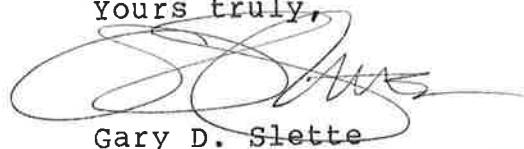
RE: City of Bellevue Claim in the Snake River Basin
Adjudication (A37-01208)

Dear Loren:

I am writing in regard to the above-captioned claim by the City of Bellevue. I note that the City of Bellevue has claimed a spring right in its adjudication claim. The city, by the decree in The City of Bellevue v. Goble, et al. dated November 9, 1885, was awarded 150 inches of the waters of Seamans Creek. By agreement dated April 19, 1920, the city entered into an exchange agreement whereby the city was to be able to utilize springs for their municipal source, however, the agreement provided that no right, title or interest in and to the spring water passed to the city. The spring rights are owned by Ms. Lita West, as successor in interest to T. A. Joslyn, who established his right to the springs in the T. A. Joslyn v. Daly decree dated May 14, 1909. The spring rights are covered by water right No. 37-1198, and have been filed on by Ms. West. By agreement dated April 1, 1985, the City of Bellevue and the late Mr. West agreed that the city abandoned all of the waters of the springs to West. As a result, the city is not entitled to any claim to those springs in the adjudication process.

On behalf of Ms. West, I would ask that you place this letter in the file concerning the adjudication claim of the City of Bellevue for future use. If you have any questions, please feel free to contact me.

Yours truly,



Gary D. Slette

GDS/mw/28541
Enclosures
cc: Lita West
R. Keith Roark

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AGREEMENT

THIS AGREEMENT is made and entered into this 5 day of APRIL, 1985, by and between the CITY OF BELLEVUE, Blaine County, Idaho, hereinafter termed "CITY", and JAMES E. WEST and DONNA O. WEST, husband and wife, hereinafter termed "WEST".

R E C I T A L S:

The City of Bellevue is a Chartered City of the State of Idaho, with the duty and obligation to provide domestic water to the inhabitants of the City. The City presently owns and maintains a municipal water system which has as its primary source of supply certain springs adjacent to Seamans Creek, east of the City limits. West is the owner of certain lands upon which the springs arise, such lands being described in Exhibit A attached hereto. The City had, prior to 1920, a prior right to 150 miners inches of the waters of Seamans Creek, and the balance of such waters was divided among the-then owners of the lands described in Exhibit A. On July 21, 1920, a certain "Memorandum Agreement" was recorded in the records of Blaine County, Idaho, as Instrument No. 45994, and is found in Book 74 of Agreements at Page 629. The Memorandum Agreement is dated April 19, 1920, and was executed by the previous owner of the Exhibit A lands, LeMoyne Farm and Livestock Company, a corporation, on May 18, 1920. The Bellevue Common Council approved and executed the Memorandum Agreement on May 19, 1920. The Memorandum Agreement basically exchanged the City's 150 miners inches of the waters of Seamans Creek for the same amount

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of water from certain springs located in the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 33, Township 2 North, Range 19 East, B.M., herein termed the "lower springs", which are described in Exhibit B attached hereto. The agreement also gave the City an easement from the springs to an existing intake building for a pipeline and provided for the furnishing of domestic water without charge to an existing dwelling, not to exceed two (2) miners inches. The agreement also imposed certain other obligations on the parties. In 1939 and in 1947, by agreement between the City and the-then unknown owners of the lands, which agreement is not in writing, the water collection system was extended in an easterly direction to certain other springs, hereintermed "upper springs" and described in Exhibit C attached hereto. A pipeline extends from the upper springs across West's lands and the lands of others to the City. The 1920 agreement provides for a permanent easement across the lands described in Exhibit A.

West has constructed an extensive irrigation system, utilizing the waters of Seamans Creek and the overflow from the upper springs, and has a reservoir which lies between the upper and lower springs.

At certain times of the year, contamination enters the water collection at the springs which renders the domestic water unsafe to drink by reason of the existence of coliform. Investigations by the City have shown that it is possible to develop additional

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water from the aquifer at certain points on the West lands where contamination is unlikely. The City has obtained a grant from the Federal Government to rehabilitate the domestic water system, including the collection system.

The parties believe that a new agreement is necessary and desirable to implement the 1920 agreement and to modify it so as to enable the City to obtain a new water system and for West to utilize the water of both springs for irrigation purposes.

NOW, THEREFORE, in consideration of the mutually dependent covenants and benefits contained herein, the parties agree as follows:

1) The City hereby abandons to West and his successors in interest in the lands described in Exhibit A all of the waters of the springs described in Exhibit B and C, subject to the provisions of paragraph 6 below.

2) West hereby gives and grants unto the City permanent easements, described in Exhibits D, E and F attached hereto, for the development and use of the underground waters therein for the purpose of collecting water for use in the City's domestic water system.

3) West hereby gives and grants unto the City a permanent easement, described in Exhibit G attached hereto, for a pipeline from the springs described in Exhibits D, E and F to the City's existing pipeline below the lower springs.

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FEB 23 1993

4) West hereby gives and grants unto the City a temporary construction easement, described in Exhibit H attached hereto, for the purpose of construction of the new collection system and pipeline. The City agrees to restore the lands encompassed in this temporary easement to a condition comparable to that that existed prior to the execution of this agreement.

5) The City will, at its own expense, construct appropriate diversion works so that the upper springs flow into Seamans Creek, and appropriate diversion works so that the lower springs are connected to West's irrigation system. The design and location of such diversion works shall be by mutual agreement.

6) In the event of drouth or other act of God which results in the City being unable to obtain 150 miners inches from the new collection system, the City shall have the right to place all of the flow of the lower springs back into the City's system, the parties recognizing that the furnishing of domestic water to the inhabitants of the City is of paramount importance. The diversion works for the lower springs shall be constructed so as to allow diversion to either West's irrigation system or the City's pipeline. In the event of such force majeure the City shall notify West of its occurrence in ample time for West to take such measures as West deems appropriate.

7) This agreement shall not be construed as giving to or allowing the City to take more water from the West lands than 150

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FEB 23 1993

miners inches or three (3) cubic feet per second, the City recognizing that 150 miners inches is the full extent of the City's rights in Seamans Gulch, and that West is entitled to all of the other waters of Seamans Creek.

8) West shall remain entitled to two (2) miners inches of water from the City's system for domestic purposes, as provided in the April 1920 agreement.

9) West hereby gives and grants unto the City an additional permanent easement for the construction of an additional pipeline, ten (10) feet in width, running from the reservoir to the westerly boundary of the Exhibit A lands, together with a construction easement twenty (20) feet wide which is included in the Exhibit H descriptions. The permanent easement shall be as described in Exhibit I attached hereto.

10) Except as modified herein, the April 1920 agreement shall remain in full force and effect.

11) After full execution, this agreement shall be recorded in the records of Blaine County, Idaho, and shall be a covenant running with the land.

12) This agreement shall inure to the benefit of the heirs, assigns and successors of each party to this agreement.

DATED this 1st day of ^{APRIL} ~~March~~, 1985.

CITY OF BELLEVUE, IDAHO

BY *Paul R. Iverson*
Mayor

James E. West
JAMES E. WEST

ATTEST:

Donna Q. West
City Clerk

Donna Q. West
DONNA Q. WEST

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FEB 23 1993

STATE OF ~~IDAHO~~)
County of ~~Blaine~~) ss.

On this 22nd day of March, 1985, before me a Notary Public in and for said State, personally appeared JAMES E. WEST, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

John H. Adams
Notary Public for ~~Idaho~~ Idaho
Residence: Hailey, Idaho
My Commission Expires: 10/22/85

STATE OF IDAHO)
County of Blaine) ss.

On this 1st day of March, 1985, before me a Notary Public in and for said State, personally appeared DONNA Q. WEST, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Susan W. Goan
Notary Public for Idaho
Residence: Ketchikan
My Commission Expires: Perpetual

STATE OF IDAHO)
County of Blaine) ss.

On this 1st day of April, 1985, before me a Notary Public in and for said State, personally appeared DALE EWERSON and ANNA FAYE O'DONNELL, known to me to be the Mayor and City Clerk, respectively, of the CITY OF BELLEVUE, the persons who executed the foregoing instrument on behalf of said City, and acknowledged to me that such City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

John W. Bollen
Notary Public for Idaho
Residence: Hailey
My Commission Expires: Apr

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FEB 23 1993

EXHIBIT "A"

A parcel of land in Sections 27, 28, 29, 30, 32, 33 and 34,
Township 2 North, Range 18 East, B.M., Blaine County, Idaho.

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FEB 23 1993

February 28, 1985

EXHIBIT "B"

EXISTING LOWER SPRING

A parcel of land located in the NE 1/4 of Section 33, T.2N, R.19E, BM, Blaine County, Idaho more particularly described as follows:

Beginning at the Northwest corner of said NE 1/4;
thence S. 40°00'E 280 feet to the REAL POINT OF BEGINNING;
thence N. 84°00'E 124.0 feet;
thence S. 10°00'E 180.0 feet;
thence N. 85°00'E 275.0 feet;
thence S. 10°00'E 10.0 feet;
thence S. 88°00'W 284.0 feet;
thence N. 42°09'49"W 255.65 feet;
thence N. 9°08'30"E 60.0 feet to the REAL POINT OF
BEGINNING.

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FEB 23 1993

February 28, 1985

EXHIBIT "C"

EXISTING UPPER SPRING

An existing water pipeline located in the NE 1/4 of Section 33, T.2N, R.19E, 8M, Blaine County, Idaho more particularly described on the following centerline:

Commencing at the northwest corner of said NE 1/4;
thence S. $45^{\circ}26'E$ 380 feet more or less to an existing lower
spring concrete weir box; said point also being the REAL
POINT OF BEGINNING;
thence S. $75^{\circ}28'E$ 1090 feet more or less to the existing
upper spring concrete weir box;
thence S. $72^{\circ}21'E$ 130 feet;
thence N. $72^{\circ}31'E$ 111 feet;
thence S. $19^{\circ}58'E$ 82 feet;
thence S. $75^{\circ}30'E$ 130 feet.

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February 28, 1985

EXHIBIT "D"

SPRING SOURCE NO. 1
CITY OF BELLEVUE

A domestic water spring source easement located in the Northeast 1/4 of Section 33, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 150 foot strip of land, being 50 feet right and 100 feet left of the following described line:

Beginning at a point which lies S. 72°31'E 1700 feet more or less from the northwest corner of said NE 1/4;
thence said strip running N. 61°30'E 75 feet;
thence S. 67°30'E 100 feet.

This easement is for the purpose of constructing and maintaining a domestic water spring source by the City of Bellevue, its agent or Contractors.

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February 28, 1985

EXHIBIT "E"

SPRING SOURCE NO. 2
CITY OF BELLEVUE

A domestic water spring source easement located in Section 33 and 34, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 150 foot strip of land, being 50 feet right and 100 feet left of the following described line:

Beginning at a manhole which lies S. 75°43'E 2882 feet more or less from the northwest corner of said NE 1/4; said continuous strip of land running N. 74°23'E 220 feet;

This easement is for the purpose of constructing and maintaining a domestic water spring source by the City of Bellevue, its agent or Contractors.

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FEB 23

February 28, 1985

EXHIBIT "F"

SPRING SOURCE NO. 3
CITY OF BELLEVUE

A domestic water spring source easement located in Section 34, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 150 foot strip of land, being 50 feet right and 100 feet left of the following described line:

Beginning at the westerly end of a buried 10" perforated pipe which lies S. 79°09'E 3600 feet more or less from the northwest corner of said NE 1/4; said continuous strip of land running N 87°32'E 200 feet;

This easement is for the purpose of constructing and maintaining a domestic water spring source by the City of Bellevue, its agent or Contractors.

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February 28, 1985

EXHIBIT "G"

SPRING PIPELINE EASEMENT
CITY OF BELLEVUE

A domestic water pipeline easement located in Section 33 and 34, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 20 foot strip of land, being 10 feet right and 10 feet left of the following described line:

Beginning at the connection of the 1985 spring project to the old steel transmission line which lies S 22°15'E 295 feet, more or less from the northwest corner of said NE 1/4; said strip of land running along the centerline of the said transmission water pipeline; thence N 79°E 180 feet; thence N 86°E 160 feet; thence S 80°E 370 feet; thence S 78°E 200 feet; S 73°E 255 feet; thence S 80°E 235 feet; thence S 66°30'E 150 feet; thence S 56°E 570 feet; East 200 feet; N 80°E 300 feet; N 72°E 215 feet; N 74°23'E 220 feet; S 82°E 155 feet; S 70°E 170 feet; N 88°E 135 feet; N 59°30'E 96 feet; thence N 87°32'E 200 feet.

This easement is for the purpose of constructing and maintaining a domestic water pipeline by the City of Bellevue, its agent or Contractors.

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FEB 23 1993

February 28, 1985

EXHIBIT "H"

TEMPORARY EASEMENT STAGING AREA
CITY OF BELLEVUE

A temporary construction area easement located in the Northeast 1/4 of Section 33, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 100 foot strip of land, being 100 feet right and 0 feet left of the following described line:

Beginning at a point which lies S 71°35'E 1065 feet from the northwest corner of said NE 1/4; said strip of land running S 73°E 255 feet.

The purpose of this temporary easement is to facilitate the construction of the 1985 water project for the City of Bellevue. Easement shall become void upon completion of said work.

TEMPORARY EASEMENT FOR TRANSMISSION LINES

A temporary domestic water pipeline easement located in Sections 31 and 32, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

Following
A temporary construction easement being a continuous strip of land that lies between 10 feet right and 50 feet right of the above described line.

Beginning at a point which lies on the centerline of the most northerly existing 8-inch City of Bellevue water main west of the water storage reservoir and lies S 72°51'W 4205 feet more or less of the north 1/4 of Section 33 of said Township and Range; said continuous strip running S 85°32'W 2650 feet more or less to the easterly right-of-way boundary of Bay Horse Road.

The purpose of this temporary easement is to facilitate the construction of the 1985 water project for the City of Bellevue. This temporary easement shall become void upon completion of said work.

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February 28, 1983

EXHIBIT "I"

PERMANENT EASEMENT FOR TRANSMISSION LINES
CITY OF BELLEVUE

A permanent domestic water pipeline easement located in Sections 31 and 32, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 20 foot strip of land, being 10 feet right and 10 feet left of the following described line:

Beginning at a point which lies on the centerline of the most northerly existing 8-inch City of Bellevue water main west of the water storage reservoir and lies S 71° 51' W 1205 feet more or less of the north 1/4 of Section 33 of said Township and Range; said continuous strip running S 85° 33' W 2650 feet more or less to the easterly right-of-way boundary of Day Horse Road.

This easement is for the purpose of constructing and maintaining a water pipeline by the City of Bellevue, its agent or Contractors.

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resolution, including the said resolution, have been duly entered in the Minute Book of Directors' Meetings of said corporation and attested by the President and Secretary thereof; that the same has never been revoked, but remains in full force and effect; that the undersigned was, at the date of said meeting, and now is the duly elected, qualified and acting Secretary of said corporation, and that the authority conferred by said resolution upon the President and Secretary of said corporation has not been heretofore exercised, pursuant thereto.

Dated May 10, 1920.

Boise, Idaho.

Louis M. Roos, Secretary.

(Corporate Seal)

MEMORANDUM AGREEMENT.

THIS INDENTURE made and entered into this 19th day of April, 1920, by and between the CITY OF BELLEVUE, a municipal corporation, of the State of Idaho, the party of the first part, and LEMOYNE FARM & LIVESTOCK COMPANY, a corporation, party of the second part, WITNESSETH:-

That, Whereas, the party of the first part is the owner of, in possession and control of, the right to the use of One Hundred Fifty (150) acres of land situated in the possession of the right to the use of One Hundred Fifty (150)

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FEB 23 1993

Now, therefore, in consideration of the premises, and the payment of the sum of Three Hundred Fifty (\$350.00) Dollars and the mutual benefits to be derived by the parties hereto and the covenants and agreements hereinafter set forth, the value and sufficiency of which is hereby acknowledged as passing from each party hereto to the other, the said party of the second part hereby gives and grants unto the said party of the first part a right of way over and across the lands of the party of the second part ten (10) feet in width, and being five feet on each side of the center line of the pipe line of the party of the first part, being in said Blain County, Idaho, and particularly described as follows, to-wit:

NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 33; NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 32, Tp. 2 N.R. 19 E., B.M. and said second party does also hereby give and grant unto the party of the first part the exclusive right to the use of the following described tract of land surrounding said springs, in said Blain County, Idaho, for the purposes herein above set forth, and which said tract of land is particularly described as follows, to-wit:

DESCRIPTION OF EXTENSION OF WATER WORKS

FOR THE TOWN OF BELLEVUE

I here inclose a description by metes and bounds of the Springs located on the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33, Township 2 North, Range 19 E.B.M. and described as follows:

Commencing at a point located South 40 degrees East 280 feet, from the North quarter corner of Section 33, thence North 84 degrees East 124 feet, thence S. 10° E. 180' thence North 85 degrees East 275 feet, thence south 10 degrees East 100 feet, thence South 88 degrees West 284 feet, thence North 50 degrees West 248 feet, thence North

MICROFILMED
FEB 23 1993

dwelling at his own expense after the same is installed by first party as above provided. The party of the first part is to furnish free of expense to the party of the second part, water for domestic purposes in the said dwelling house from the said springs, or from their decreed right of 150 inches during such time as this agreement remains in force and while the party of the first part uses water through said pipe line and right of way.

First party agrees to clean out the above described springs so that the natural flow therefrom, will be unobstructed and free, and to maintain the same in such condition at all times hereunder. And the party of the first part further agrees to hold the party of the second part free from all damages that may be occasioned by reason of stock breaking into the said inclosures provided for herein. The party of the first part agrees to install all necessary measuring devices to measure the said water.

It is agreed hereunder that over and above the said Two inches of water above agreed to be furnished second party for irrigation purposes, the first party is to have the right to the use of all water flowing from said springs through the pipe line of the first party, and in exchange for the use of which the second party is to have the right to the use of such an amount of the said water

MICROFILMED
FEB 23 1993

farming of the surface soil by second party, and to leave the surface ground covering all excavations made by first party hereunder free from boulders and waste material, without unreasonable fill or hollow, to the end that the cultivation of the surface ground will not be impaired by the installation of said pipe lines by first party, and that first party shall keep its said pipe line in good repair at all times at its own expense, and second party shall keep its said individual line in good repair at all times at its own expense, the said first party having the right at all times hereunder to enter upon said pipe line right of way for the purpose of installing the same and making necessary repairs thereon.

Time is of the essence of this agreement, the first party shall have the right to commence work on said pipe line and said springs immediately upon the execution and delivery hereof, and shall prosecute all of said work to a final completion with reasonable diligence after commencing same, but shall not begin the use of any water from said springs for supply to said municipality until after said springs are properly enclosed as above set forth, and the terms of this agreement shall extend to and bind the successors and assigns of all parties hereto, and shall be a perpetual agreement as to matters herein set forth until such time as the same may be mutually cancelled or rescinded by the action of all parties at such time interested herein.

In Witness Whereof the respective parties hereto, by their proper officers first duly authorized, have caused these presents to be executed in duplicate, and the respective corporate seals of said parties to be hereunto affixed, this the day and year in this indenture first above mentioned.

Attest: Mack W. Crouch, City Clerk.

(Corporate seal of City of Bellevue)

H. J. Martin, City Mayor

First Party

MICROFILMED
FEB 23 1993

Christensen, Kelly

From: Christensen, Kelly
Sent: Monday, June 29, 2009 9:29 AM
To: Bromley, Chris; Ridgeway, Renea
Subject: 37-1208 City of Bellevue

Attachments: 37-1208 CITY OF BELLEVUE V2 recom.doc

INITIAL HEARING June 30, 2009 at 1:30

Attached is the strikeout underline Version 2 recommendation for this right. As I received gps locations for the points of diversion from the City Engineer, I updated the points of diversion to show the 10-acre tracts. Also the director's rpt did not include the POU language associated with digital boundaries.

This one should be ready for SF-5 routing.



37-1208 CITY OF
BELLEVUE V2 re...

Renea, I know Vicki's routine but if you have a different approach to this process let me know your wishes.

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

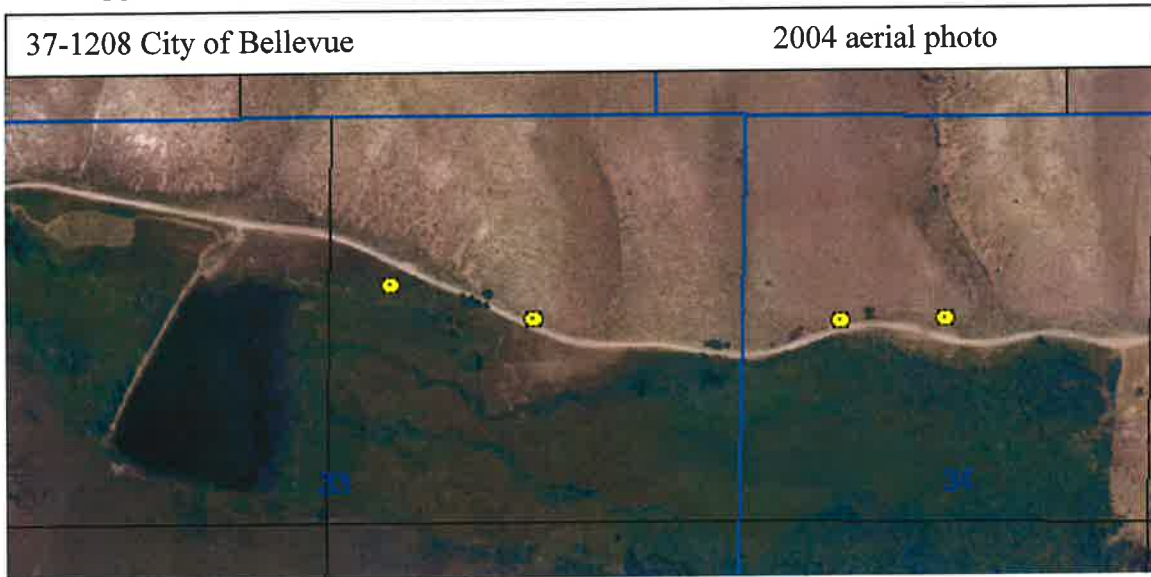
SF-5 being Routed
9-17-09

all
SCANNED
DEC 03 2021

City of Bellevue

37-1208

Shown are the points of diversion locations as recommended. Primarily they are just nominal locations and therefore do not actually represent much of anything. Transfer 3245 approved April 2, 1986 was basically filed to install buried perforated pipe systems



for the spring developments. Basically what I want to know is what springs were actually developed and what is the approximate route(s) for the perforated pipeline system(s)? The sections of perforations would basically be the POD locations.

06/29/2009

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-1208

NAME AND ADDRESS: CITY OF BELLEVUE
PO BOX 449
BELLEVUE ID 83313-0449

SOURCE: SPRINGS

TRIBUTARY: SEAMANS CREEK

QUANTITY: 3.000 CFS

PRIORITY DATE: 07/20/1880 ~~11-09-1885~~

POINT OF
DIVERSION:

T02N R19E S33 NWNENE Within BLAINE County
T02N R19E S33 NWNENE Within BLAINE County
T02N R19E S33 NWNENE Within BLAINE County
T02N R19E S33 SWNE Within BLAINE County
T02N R19E S34 SWNWNW Within BLAINE County
T02N R19E S34 SENWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	3.000 CFS

PLACE OF USE:

*Chg to
within Service
Area.
Per Booth*

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in source pursuant to Section 42-1425, Idaho Code.

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

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

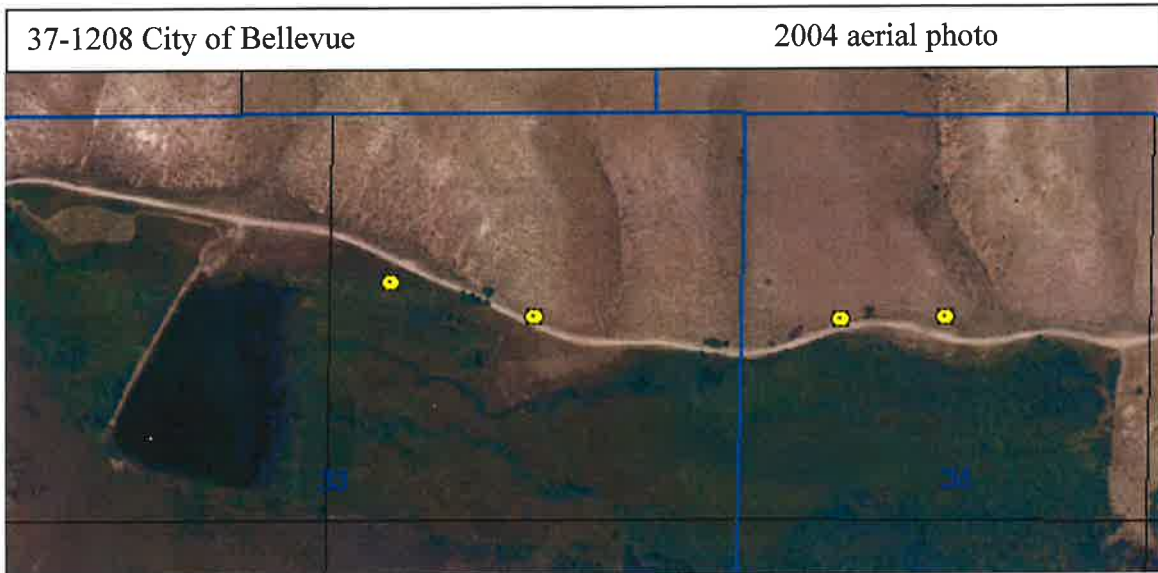
	<u>Lat</u>	<u>Long</u>	<u>City of Bellevue</u>
Upper	N043° 28' 02.80"	W114° 11' 02.96"	
Middle	N043° 28' 02.59"	W114° 11' 12.79"	
Lower1	N043° 28' 04.59"	W114° 11' 28.42"	
Lower2a	N043° 28' 03.41"	W114° 11' 29.59"	
Lower2b	N043° 28' 04.16"	W114° 11' 29.95"	
Lower2c	N043° 28' 03.84"	W114° 11' 31.39"	

Title Spring Locations

Received 6-17-09 (3:59)
e-mail from Fritz Haemmerle

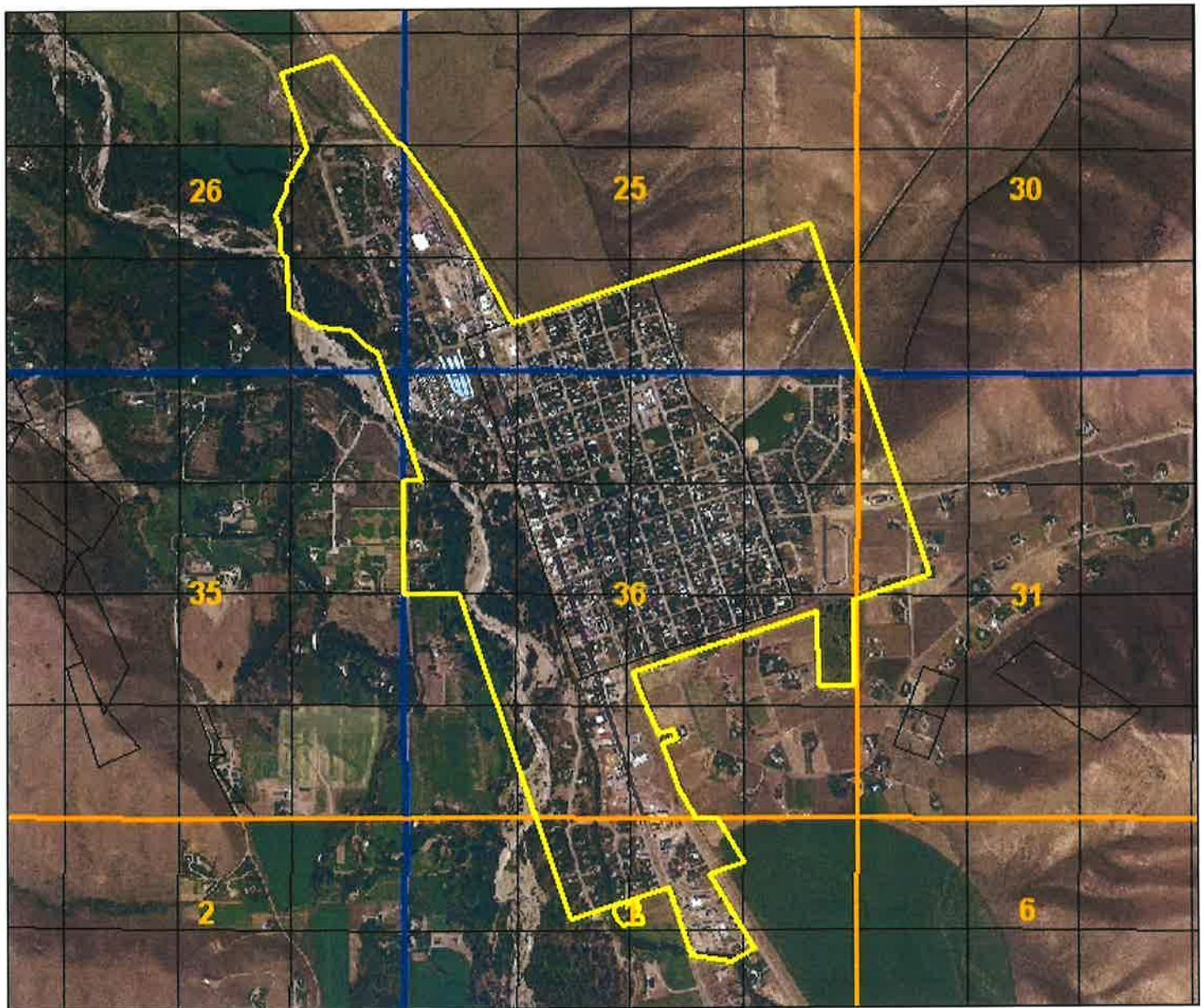
City of Bellevue

Shown are the points of diversion locations as recommended. Primarily they are just nominal locations and therefore do not actually represent much of anything. Transfer 3245 approved April 2, 1986 was basically filed to install buried perforated pipe systems



for the spring developments. Basically what I want to know is what springs were actually developed and what is the approximate route(s) for the perforated pipeline system(s)? The sections of perforations would basically be the POD locations.

RECOMMENDED PLACE OF USE FOR 37-1208 City of Bellevue



PLACE OF USE

TWP 02N, RNG 18E, SEC 25, 26, and 36

TWP 02N, RNG 19E, SEC 31

TWP 01N, RNG 18E, SEC 1

Data Entry on June 29, 2009

- ★ Recommended point of diversion
- Yellow outline Recommended place of use
- Orange line Township lines
- Blue line Section lines
- Black line Quarter/quarter lines

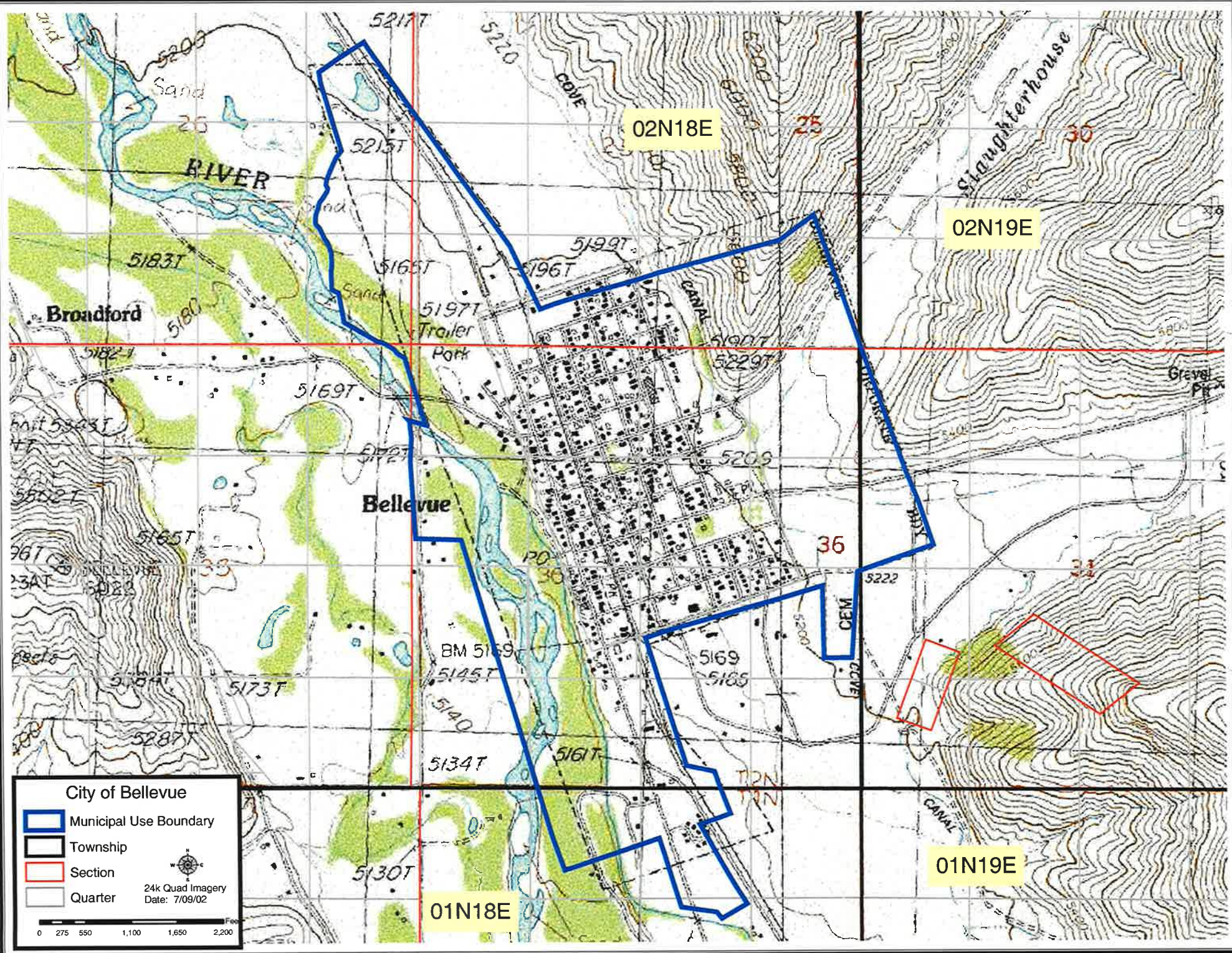
*GIS PLACE OF USE PRESENTATION
2004 AERIAL PHOTOGRAPHY
BY KELLY K CHRISTENSEN*

★ LOCATION IN BASIN



Basin 37





02N18E

02N19E

Bellevue

01N19E

01N18E

City of Bellevue

Municipal Use Boundary

Township

Section

Quarter

24k Quad Imagery
Date: 7/09/02

0 275 550 1,100 1,650 2,200 Feet

RECEIVED

AUG 16 2002

Department of Water Resources

City of Bellevue

P.O. Box 449

Bellevue, Idaho 83313

Office of the City Administrator

Mr. Mark Larson
Idaho Department of Water Resources
1301 N Orchard St.
Boise Id. 83706

August 14, 2002

Dear Mr. Larson

This letter is in response to your letter of August 8, 2002 and the map showing the boundary lines of the City of Bellevue.

The map you sent is not totally correct so I have included with this letter a map of what the City of Bellevue feels are the real boundary lines of the city.

If you have any questions please feel free to call me at 78802128.

Sincerely



Jack Stoneback
Bellevue City Administrator

10/23/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-1208

NAME AND ADDRESS: CITY OF BELLEVUE
PO BOX 449
BELLEVUE ID 83313-0449

SOURCE: SPRINGS

TRIBUTARY: SEAMANS CREEK

QUANTITY: 3.000 CFS

PRIORITY DATE: 11/09/1885

POINT OF DIVERSION:

T02N R19E S33 NENE Within BLAINE County
T02N R19E S33 NENE Within BLAINE County
T02N R19E S33 NENE Within BLAINE County
T02N R19E S34 NWNW Within BLAINE County
T02N R19E S34 NWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	3.000 CFS

PLACE OF USE:

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

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

Right includes accomplished change in source pursuant to Section 42-1425, Idaho Code.



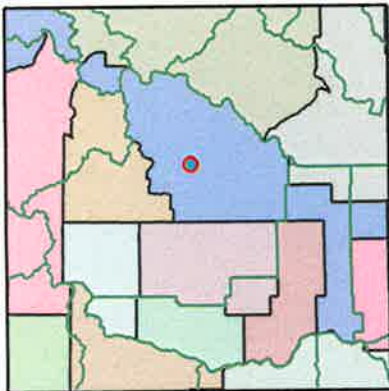
City Of Bellevue

SRBA Recommendations: 37-1208, 37-7637

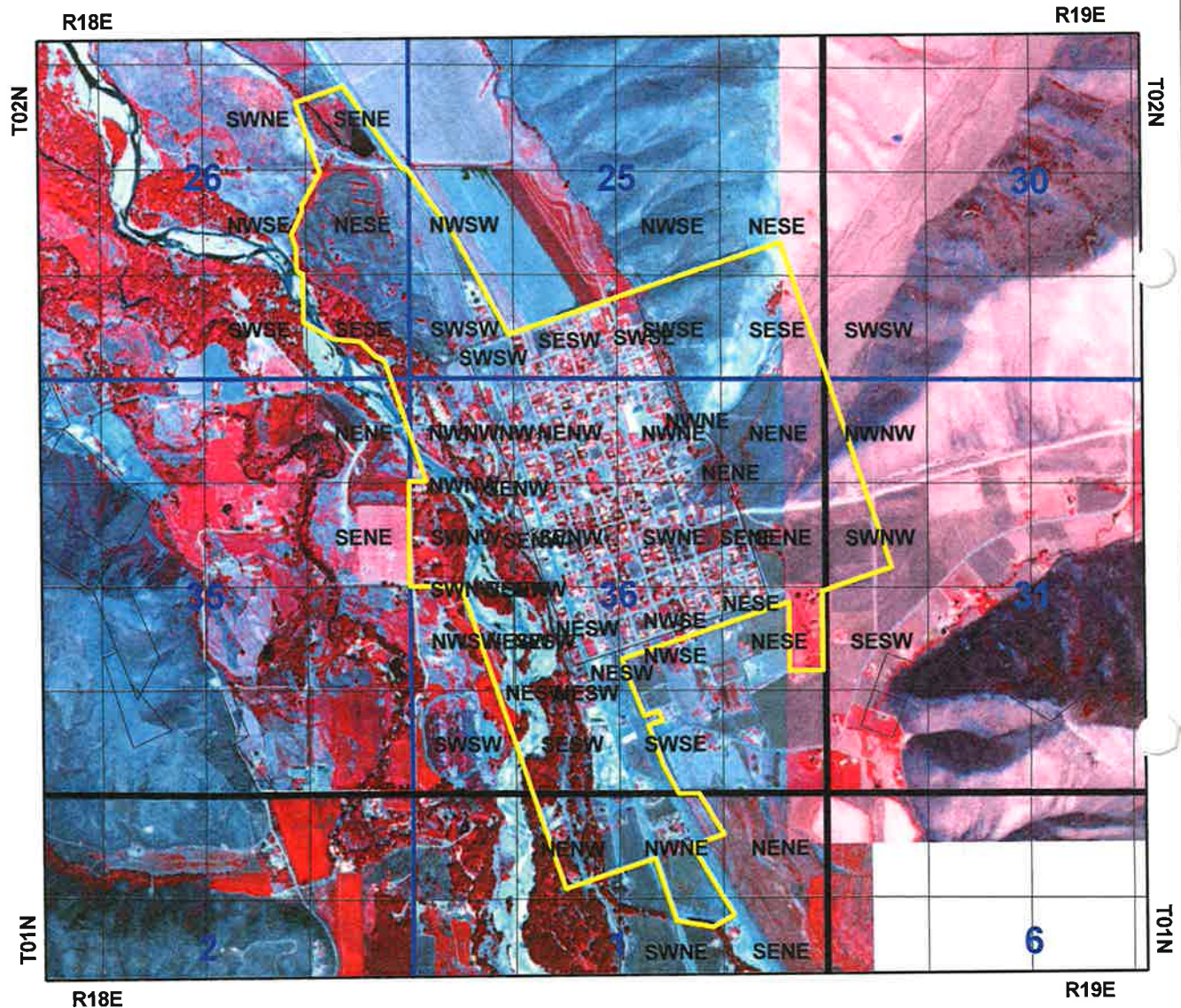
Service Area Boundary
GIS Place of Use Illustration

Legend

-  Service Area
-  Townships
-  PLS Sections
-  Quarter Quarters



Blaine County
IDWR Basin 37



0 0.9 1.8 Miles

Prepared by A. Warntjes
On Monday, October 23, 2006
1987/88 Aerial Photography

10/21/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-1208
NAME AND ADDRESS: CITY OF BELLEVUE
PO BOX 449
BELLEVUE ID 83313-0449

SOURCE: SPRINGS TRIBUTARY: SEAMANS CREEK

QUANTITY: 3.000 CFS

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

PRIORITY DATE: 11/09/1885

POINT OF DIVERSION:

T02N R19E S33 NENE Within BLAINE County - 2 Springs

T02N R19E S34 NWNW Within BLAINE County - 2 Springs

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	3.000 CFS

PLACE OF USE:

Within City of Bellevue

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Comments: P. U. IS ASSUMED TO BE WITHIN CITY LIMITS OF BELLEVUE.
PRIORITY DATE NOT DECREED; DATE SHOWN IS DECREE DATE.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Section Right includes accomplished change in point of diversion pursuant to

pursuant to Section 42-1425, Idaho Code. Right includes accomplished change in source pursuant to Section 42-1425, Idaho Code.

3

37-0X
Seamand's Creek Rights of 37-46

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE TERRITORY OF IDAHO, IN AND FOR THE COUNTY OF ALTURAS.

THE CITY OF BELLEVUE,

Plaintiff,

vs.

SIMPSON GOBLE, MRS. JENNIE GALBRAITH,

D E C R E E .

-- WOMACK, JOHN W. BROWN,

MICHAEL BROWN, MIKE SMITH, A. BRYAND,

JOHN HURBARD, AND THE WOOD RIVER

SMELTING COMPANY.

Defendant.

This cause came on regularly to be heard at the May Term 1885 of this Court and by stipulation of the parties was by order of this Court made and entered on the 25th day of July, A.D. 1885, referred to D. E. Waldron, Esq., to take the testimony and report his findings of fact and conclusions of law therein at the October Term, A.D. 1886 of this Court and the said Referee having taken said testimony and having made and filed his report containing his findings of fact and conclusions of law thereon, which report was filed herein on the 31st day of October, 1885, whereby the said Referee found that the plaintiff is entitled to 300 inches of the waters of Seamand's Creek measured under a four inch pressure and that the Defendants had unlawfully interfered with the plaintiff's right to the use thereof as stated in the complaint to which report and findings reference is hereby made, Now on motion of G. L. Waters, Esq. and Messrs. Angel & Sullivan, Attorneys for the Plaintiff,

37-1208

It is ordered, adjudged and decreed that the plaintiff in this action, the City of Bellevue, is the owner of and entitled to the possession of Three Hundred (300) inches measured under a four inch pressure of the waters of Seamand's Creek under and by virtue of the appropriation, diversion, and use thereof as stated in the complaint and found by the said Referee and that the

150 (see modification at end of decree)
281996

defendants have not nor either of them any right, title or interest in or to said Three Hundred (300) inches of the waters of said Seaman's Creek owned by the plaintiff as aforesaid, or any part thereof.

And it is further adjudged and decreed that the said defendants, Simpson Goble, Womack, Jennie Galbraith, Mike Smith, John Brown, Michael Brown, A. J. Bryant, John Hubbard and the Wood River Smelting Company, their and each of their attorneys, agents, servants, employees and all persons acting by through or under them or either of them, be and each is hereby forever enjoined and restrained from in any manner turning, diverting, appropriating, or using any portions of the waters of Seaman's Creek or in any manner whatever interfering with the free and unobstructed use and possession of the waters of said Seaman's Creek or in any manner whatever interfering

with or turning out any waters from said Seaman's Creek after said waters shall have reached the said plaintiff's dam and ditch, so long as the quantity running in said ditch shall not exceed Three Hundred inches measured under a four inch pressure or in any manner whatever prevent or obstruct the said plaintiff, the City of Bellevue, and the inhabitants thereof, from the free and unobstructed use and possession of the said quantity of Three Hundred inches measured under a four inch pressure of the waters of said Seaman's Creek, or in any manner whatever obstruct or prevent the said Three Hundred inches of the waters so measured as aforesaid, from freely and without obstruction flowing into the ditch or ditches of the plaintiff, and it is further ordered and adjudged that the plaintiff, the City of Bellevue, do have and recover from the defendants the sum of \$

Dollars, costs and disbursements at this action.

MAY 28 1896

-3-

Dated November
9th, 1885.

By the Court,

CASE BRODERICK,

District Judge.

NOTE: This judgment modified so as to allow plaintiff to
have 150 inches of water, and that each party pay their own
costs.

(Judgment Book 4, page 393)

MAY 28 1896

HAEMMERLE & HAEMMERLE, P.L.L.C.

Attorneys & Counselors at Law

Fritz X. Haemmerle
Jennifer L. K. Haemmerle

P. O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

July 28, 2005

IDWR Southern Region
c/o Doug Jones
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380
(Hand Delivered)

Re: Adjudication Document: Bellevue City Water Right 37-01208

Dear Doug:

The purpose of the meeting of July 28, 2005, is to discuss the City of Bellevue's ("City") primary water right, 37-01208. Specifically, the City wishes to address a letter from Gary Slette, dated July 27, 1989, currently in IDWR's adjudication file, and attached to this letter. Mr. Slette, then attorney for James E. West and Donna O. West, the predecessor in interest to Alvin Shoemaker, the current owner of the E-DA-HO Ranch, incorrectly opined that the City abandoned water right 37-01208, and that the City's right to use water stems from the E-DA-HO Ranch water right, 37-01198. I will address both of these erroneous assertions.

Prior to addressing Mr. Slette's specific arguments, it is important for IDWR to understand the history between the City and the E-DA-HO Ranch. On April 1, 1985, the City and Mr. Slette's then client, James E. West and Donna O. West, entered into an the attached agreement ("Agreement"). The purpose of the Agreement was to assure that the City's water rights, fed from spring sources, remained contamination free. For some time, the Wests were pasturing stock too close o the City's spring sources, so the sources were moved to protect the City's drinking water supply. The recitals of the Agreement, in pertinent part, read as follows:

At certain times of year, contamination enters the water collection [for the City] at the springs which renders the domestic water [of the City] unsafe to drink by reason of the existence of coliform. Investigations by the City have shown that it is possible to develop additional water from aquifer at certain points on the West lands where contamination is unlikely. The City has obtained a grant from the federal government to rehabilitate the domestic system, including the collection system.

The parties believe that a new agreement is necessary and desirable to implement the 1920 agreement and to modify it so as to enable the City to obtain a new water system and for West to utilize the water of both springs for irrigation purposes.

Agreement, p. 2-3.

To accomplish these purposes, the City relocated a source from the west of the pond (south side of the road), to new sources to the east of the pond (north side of the road). The old and new sources are no more than 1000-1500 feet apart. Two sources that existed prior to 1985 remained the same. All these sources are depicted on the plat, attached hereto. The only diversions between the old and new sources are the City's pre-1985 diversions and the pond on E-DA-HO's property.

With this history in mind, the City adamantly believes that it has never abandoned its water, as claimed by Mr. Slette. As IDWR is well aware, "abandonment" requires "(1) an intent to abandon and (2) an actual relinquishment or surrender of the water right. *Jenkins v. State, Department of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982). Furthermore, all intendments are to be indulged against forfeiture and abandonment. *Hodges v. Trial Creek Irrigation Co.*, 78 Idaho 10, 297 P.2d 524 (1956). Here, the City has never ceased using its allocated water. It has continuously used its water, expect, perhaps, for the time it was relocating the points of diversion consistent with the Agreement. Since the City has never ceased using water, nether abandonment nor forfeiture could apply.

As to Mr. Slette's argument that the City uses its water through the E-DA-HO Ranch water right, 37-1198, it should be noted that the Wests never claimed a municipal use for their right, 37-01198. This is aside from the fact that it is doubtful whether a private party can ever claim a municipal use. To the extent that the Wests never attempted to protect or claim the City's right is strong evidence against Mr. Slette's assertion that the City merely has a "use right" through the E-DA-HO Ranch's primary water right.

Consistent with the Agreement and the legal principles cited, and to the extent that IDWR may believe that the changes in the sources constituted a transfer, the City believes that the accomplished transfer provisions of 42-1425 apply because: (1) the post-1985 diversions were perfected prior to November 19, 1987; (2) no injury resulted because there was no expansion; and (3) there were no other possible water rights that could have been injured by the change in points of diversion.

Because of the importance of water right 37-01208 to the City, I would be available for any questions IDWR may have during its investigative period prior to the Director filing his Director's Report for Basin 37.

Idaho Department of Water Resources
c/o Doug Jones
July 28, 2005
Page 3

Thank you for the opportunity to meet with you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

A handwritten signature in blue ink, appearing to read 'Fritz X. Haemmerle', with a long horizontal flourish extending to the right.

Fritz X. Haemmerle

FXH: fxh

Encl:

- (1) Gary Slette letter dated July 27, 1989
- (2) April 1, 1985, Agreement
- (3) Plat Showing POD

cc: client

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER
Chartered

ATTORNEYS AT LAW

142 2nd AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 734-0041

THOMAS C. NELSON
JOHN A. ROSHOLT
J. PHIL ROBERTSON
STEVEN B. TOLMAN
JAMES C. TUCKER
TERRY L. LARSON
TERRY R. ANDERSON
J. BRUCE EDWARDS
BRIAN EMMETT
CARY D. MITTE
L. ARCELYN M. ANDERSON
BRUCE M. SMITH
C. RICHARD BRYAN
BRAD M. PERRY
CARY L. CHICKLEY
TIM J. WILLIAMS

Snake Office
1000 MAIN ST., SUITE 400
P.O. BOX 200
BOYD, IDAHO 83701-0200
TELEPHONE (208) 336-0700
FAX (208) 336-0041

RECEIVED

July 27, 1989

JUL 28 1989

Department of Water Resources
Southern Region Office

Idaho Department of Water Resources

Attn: Loren Holmes
2148 Fourth Ave. East
Twin Falls, ID 83301

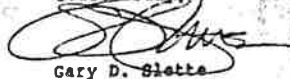
RE: City of Bellevue Claim in the Snake River Basin
Adjudication (A37-01208)

Dear Loren:

I am writing in regard to the above-captioned claim by the City of Bellevue. I note that the City of Bellevue has claimed a spring right in its adjudication claim. The city, by the decree in The City of Bellevue v. Goble, et al. dated November 9, 1885, was awarded 150 inches of the waters of Seamans Creek. By agreement dated April 19, 1920, the city entered into an exchange agreement whereby the city was to be able to utilize springs for their municipal source, however, the agreement provided that no right, title or interest in and to the spring water passed to the city. The spring rights are owned by Ms. Lita West, as successor in interest to T. A. Joslyn, who established his right to the springs in the T. A. Joslyn v. Daly decree dated May 14, 1909. The spring rights are covered by water right No. 37-1198, and have been filed on by Ms. West. By agreement dated April 1, 1985, the City of Bellevue and the late Mr. West agreed that the city abandoned all of the waters of the springs to West. As a result, the city is not entitled to any claim to those springs in the adjudication process.

On behalf of Ms. West, I would ask that you place this letter in the file concerning the adjudication claim of the City of Bellevue for future use. If you have any questions, please feel free to contact me.

Yours truly,


Gary D. Slette

GDS/mw/28541
Enclosures
cc: Lita West
R. Keith Roark

32x10

32x10

AGREEMENT

THIS AGREEMENT is made and entered into this 2 day of APRIL, 1985, by and between the CITY OF BELLEVUE, Blaine County, Idaho, hereinafter termed "CITY", and JAMES E. WEST and DONNA O. WEST, husband and wife, hereinafter termed "WEST".

RECITALS:

The City of Bellevue is a Chartered City of the State of Idaho, with the duty and obligation to provide domestic water to the inhabitants of the City. The City presently owns and maintains a municipal water system which has as its primary source of supply certain springs adjacent to Seamans Creek, east of the City limits. West is the owner of certain lands upon which the springs arise, such lands being described in Exhibit A attached hereto. The City had, prior to 1920, a prior right to 150 miners inches of the waters of Seamans Creek, and the balance of such waters was divided among the then owners of the lands described in Exhibit A. On July 21, 1920, a certain "Memorandum Agreement" was recorded in the records of Blaine County, Idaho, as Instrument No. 45994, and is found in Book 74 of Agreements at Page 629. The Memorandum Agreement is dated April 19, 1920, and was executed by the previous owner of the Exhibit A lands, LeMoyne Farm and Livestock Company, a corporation, on May 18, 1920. The Bellevue Common Council approved and executed the Memorandum Agreement on May 19, 1920. The Memorandum Agreement basically exchanged the City's 150 miners inches of the waters of Seamans Creek for the same amount

of water from certain springs located in the Northwest Quarter of the Northeast Quarter (NW~~1~~NE~~4~~), Section 33, Township 2 North, Range 19 East, B.M., herein termed the "lower springs", which are described in Exhibit B attached hereto. The agreement also gave the City an easement from the springs to an existing intake building for a pipeline and provided for the furnishing of domestic water without charge to an existing dwelling, not to exceed two (2) miners inches. The agreement also imposed certain other obligations on the parties. In 1939 and in 1947, by agreement between the City and the-then unknown owners of the lands, which agreement is not in writing, the water collection system was extended in an easterly direction to certain other springs, hereintermed "upper springs" and described in Exhibit C attached hereto. A pipeline extends from the upper springs across West's lands and the lands of others to the City. The 1920 agreement provides for a permanent easement across the lands described in Exhibit A.

West has constructed an extensive irrigation system, utilizing the waters of Seamans Creek and the overflow from the upper springs, and has a reservoir which lies between the upper and lower springs.

At certain times of the year, contamination enters the water collection at the springs which renders the domestic water unsafe to drink by reason of the existence of coliform. Investigations by the City have shown that it is possible to develop additional

water from the aquifer at certain points on the West lands where contamination is unlikely. The City has obtained a grant from the Federal Government to rehabilitate the domestic water system, including the collection system.

The parties believe that a new agreement is necessary and desirable to implement the 1920 agreement and to modify it so as to enable the City to obtain a new water system and for West to utilize the water of both springs for irrigation purposes.

NOW, THEREFORE, in consideration of the mutually dependent covenants and benefits contained herein, the parties agree as follows:

* 1) The City hereby abandons to West and his successors in interest in the lands described in Exhibit A all of the waters of the springs described in Exhibit B and C, subject to the provisions of paragraph 6 below.

2) West hereby gives and grants unto the City permanent easements, described in Exhibits D, E and F attached hereto, for the development and use of the underground waters therein for the purpose of collecting water for use in the City's domestic water system.

3) West hereby gives and grants unto the City a permanent easement, described in Exhibit G attached hereto, for a pipeline from the springs described in Exhibits D, E and F to the City's existing pipeline below the lower springs.

4) West hereby gives and grants unto the City a temporary construction easement, described in Exhibit H attached hereto, for the purpose of construction of the new collection system and pipeline. The City agrees to restore the lands encompassed in this temporary easement to a condition comparable to that that existed prior to the execution of this agreement.

5) The City will, at its own expense, construct appropriate diversion works so that the upper springs flow into Seamans Creek, and appropriate diversion works so that the lower springs are connected to West's irrigation system. The design and location of such diversion works shall be by mutual agreement.

6) In the event of drouth or other act of God which results in the City being unable to obtain 150 miners inches from the new collection system, the City shall have the right to place all of the flow of the lower springs back into the City's system, the parties recognizing that the furnishing of domestic water to the inhabitants of the City is of paramount importance. The diversion works for the lower springs shall be constructed so as to allow diversion to either West's irrigation system or the City's pipeline. In the event of such force majeure the City shall notify West of its occurrence in ample time for West to take such measures as West deems appropriate.

7) This agreement shall not be construed as giving to or allowing the City to take more water from the West lands than 150

miners inches or three (3) cubic feet per second, the City recognizing that 150 miners inches is the full extent of the City's rights in Seamans Gulch, and that West is entitled to all of the other waters of Seamans Creek.

8) West shall remain entitled to two (2) miners inches of water from the City's system for domestic purposes, as provided in the April 1920 agreement.

9) West hereby gives and grants unto the City an additional permanent easement for the construction of an additional pipeline, ten (10) feet in width, running from the reservoir to the westerly boundary of the Exhibit A lands, together with a construction easement twenty (20) feet wide which is included in the Exhibit H descriptions. The permanent easement shall be as described in Exhibit I attached hereto.

10) Except as modified herein, the April 1920 agreement shall remain in full force and effect.

11) After full execution, this agreement shall be recorded in the records of Blaine County, Idaho, and shall be a covenant running with the land.

12) This agreement shall inure to the benefit of the heirs, assigns and successors of each party to this agreement.

DATED this 15th day of APRIL, 1985.

CITY OF BELLEVUE, IDAHO

By Dale K. Iverson
Mayor

ATTEST:

Anna Daye O'Donnell
City Clerk

James E. West
JAMES E. WEST

Donna Q. West
DONNA Q. WEST

STATE OF IDAHO)
) ss.
County of Blaine)

On this 29th day of March, 1985, before me a Notary Public in and for said State, personally appeared JAMES E. WEST, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

John K. Adams
Notary Public for ~~Blaine~~ Idaho
Residence: Hailey, Idaho
My Commission Expires: 10/22/85

STATE OF IDAHO)
) ss.
County of Blaine)

On this 1st day of March, 1985, before me a Notary Public in and for said State, personally appeared DONNA O. WEST, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Sum W. Goan
Notary Public for Idaho
Residence: Ketchum
My Commission Expires: Perpetual

STATE OF IDAHO)
) ss.
County of Blaine)

On this 1st day of April, 1985, before me a Notary Public in and for said State, personally appeared DALE EWERSON and ANNA FAYE O'DONNELL, known to me to be the Mayor and City Clerk, respectively, of the CITY OF BELLEVUE, the persons who executed the foregoing instrument on behalf of said City, and acknowledged to me that such City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Dale W. Bollen
Notary Public for Idaho
Residence: Hailey
My Commission Expires: Apr

EXHIBIT "A"

A parcel of land in Sections 27, 28, 29, 30, 32, 33 and 34,
Township 2 North, Range 18 East, B.M., Blaine County, Idaho.

February 28, 1985

EXHIBIT "B"

EXISTING LOWER SPRING

A parcel of land located in the NE 1/4 of Section 33, T.2N, R.19E, BM, Blaine County, Idaho more particularly described as follows:

Beginning at the Northwest corner of said NE 1/4;
thence S. $40^{\circ}00'E$ 280 feet to the REAL POINT OF BEGINNING;
thence N. $84^{\circ}00'E$ 124.0 feet;
thence S. $10^{\circ}00'E$ 180.0 feet;
thence N. $85^{\circ}00'E$ 275.0 feet;
thence S. $10^{\circ}00'E$ 10.0 feet;
thence S. $88^{\circ}00'W$ 284.0 feet;
thence N. $42^{\circ}09'49"W$ 255.65 feet;
thence N. $9^{\circ}08'30"E$ 60.0 feet to the REAL POINT OF
BEGINNING.

Abandoned by the
City of Bellevue,
See p. 3 of agreement,
but partially retained
per p. 4 & 6

February 28, 1985

EXHIBIT "C"

EXISTING UPPER SPRING

An existing water pipeline located in the NE 1/4 of Section 33, T.2N, R.19E, BM, Blaine County, Idaho more particularly described on the following centerline:

Commencing at the northwest corner of said NE 1/4;
thence S. $45^{\circ}26'E$ 380 feet more or less to an existing lower
spring concrete weir box; said point also being the REAL
POINT OF BEGINNING;
thence S. $75^{\circ}28'E$ 1090 feet more or less to the existing
upper spring concrete weir box;
thence S. $72^{\circ}21'E$ 130 feet;
thence N. $72^{\circ}31'E$ 111 feet;
thence S. $19^{\circ}58'E$ 82 feet;
thence S. $75^{\circ}30'E$ 130 feet.

Abandoned by the
City of Bellevue
See p. 3 of agreement,
but partially retained,
per p. 4 #6

February 28, 1985

EXHIBIT "D"

SPRING SOURCE NO. 1
CITY OF BELLEVUE

A domestic water spring source easement located in the Northeast 1/4 of Section 33, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 150 foot strip of land, being 50 feet right and 100 feet left of the following described line:

Beginning at a point which lies S. $72^{\circ}31'E$ 1700 feet more or less from the northwest corner of said NE 1/4;
thence said strip running N. $61^{\circ}30'E$ 75 feet;
thence S. $67^{\circ}30'E$ 100 feet.

This easement is for the purpose of constructing and maintaining a domestic water spring source by the City of Bellevue, its agent or Contractors.

February 28, 1985

EXHIBIT "E"

SPRING SOURCE NO. 2
CITY OF BELLEVUE

A domestic water spring source easement located in Section 33 and 34, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 150 foot strip of land, being 50 feet right and 100 feet left of the following described line:

Beginning at a manhole which lies S. $75^{\circ}43'E$ 2882 feet more or less from the northwest corner of said NE 1/4; said continuous strip of land running N. $74^{\circ}23'E$ 220 feet;

This easement is for the purpose of constructing and maintaining a domestic water spring source by the City of Bellevue, its agent or Contractors.

February 28, 1985

EXHIBIT "F"

SPRING SOURCE NO. 3
CITY OF BELLEVUE

A domestic water spring source easement located in Section 34, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 150 foot strip of land, being 50 feet right and 100 feet left of the following described line:

Beginning at the westerly end of a buried 10" perforated pipe which lies S. $79^{\circ}09'E$ 3600 feet more or less from the northwest corner of said NE 1/4; said continuous strip of land running N $87^{\circ}32'E$ 200 feet;

This easement is for the purpose of constructing and maintaining a domestic water spring source by the City of Bellevue, its agent or Contractors.

February 28, 1985

EXHIBIT "G"

SPRING PIPELINE EASEMENT
CITY OF BELLEVUE

A domestic water pipeline easement located in Section 33 and 34, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 20 foot strip of land, being 10 feet right and 10 feet left of the following described line:

Beginning at the connection of the 1985 spring project to the old steel transmission line which lies S 22°15'E 295 feet, more or less from the northwest corner of said NE 1/4; said strip of land running along the centerline of the said transmission water pipeline; thence N 79°E 180 feet; thence N 86°E 160 feet; thence S 80°E 370 feet; thence S 78°E 200 feet; S 73°E 255 feet; thence S 80°E 235 feet; thence S 66°30'E 150 feet; thence S 56°E 570 feet; East 200 feet; N 80°E 300 feet; N 72°E 215 feet; N 74° 23'E 220 feet; S 82°E 155 feet; S 70°E 170 feet; N 88°E 135 feet; N 59°30'E 96 feet; thence N 97°32'E 200 feet.

This easement is for the purpose of constructing and maintaining a domestic water pipeline by the City of Bellevue, its agent or Contractors.

February 28, 1985

EXHIBIT "H"

TEMPORARY EASEMENT STAGING AREA
CITY OF BELLEVUE

A temporary construction area easement located in the Northeast 1/4 of Section 33, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 100 foot strip of land, being 100 feet right and 0 feet left of the following described line:

Beginning at a point which lies S 71°35'E 1065 feet from the northwest corner of said NE 1/4; said strip of land running S 73°E 255 feet.

The purpose of this temporary easement is to facilitate the construction of the 1985 water project for the City of Bellevue. Easement shall become void upon completion of said work.

TEMPORARY EASEMENT FOR TRANSMISSION LINES

A temporary domestic water pipeline easement located in Sections 31 and 32, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

Following
A temporary construction easement being a continuous strip of land that lies between 10 feet right and 50 feet right of the ~~above~~ described line.

Beginning at a point which lies on the centerline of the most northerly existing 8-inch City of Bellevue water main west of the water storage reservoir and lies S 72°51'W 4205 feet more or less of the north 1/4 of Section 33 of said Township and Range; said continuous strip running S 85°32'W 2650 feet more or less to the easterly right-of-way boundary of Bay Horse Road.

The purpose of this temporary easement is to facilitate the construction of the 1985 water project for the City of Bellevue. This temporary easement shall become void upon completion of said work.

February 26, 1965

EXHIBIT "I"

PERMANENT EASEMENT FOR TRANSMISSION LINES
CITY OF BELLEVUE

A permanent domestic water pipeline easement located in Sections 31 and 32, Township 2 North, Range 19 East of the Boise Meridian, Blaine County, Idaho.

A continuous 20 foot strip of land, being 10 feet right and 10 feet left of the following described line:

Beginning at a point which lies on the centerline of the most northerly existing 24-inch City of Bellevue water main west of the water storage reservoir and lies S 70°31'W 1205 feet more or less at the north 1/4 of Section 33 of said Township and Range; said continuous strip running S 85°32'W 2650 feet more or less to the right-of-way boundary of Day Horse Road.

This easement is for the purpose of constructing and maintaining a water pipeline by the City of Bellevue, its agent or contractors.