

October 2, 1995

Regulatory Branch (VIO) 199550550

Mark and Myle Walsh
P.O. Box 2823
Park City, Utah 84060

Dear Mr. and Mrs. Walsh:

This letter is in regard to your property, lot 15 in the Swiss Paradise subdivision. This lot is located within Section 35, Township 3 South, Range 4 East in Midway, Wasatch County, Utah.

(b) (6) of my office met with Mr. Walsh at your lot on September 20, 1995. (b) (6) informed Mr. Walsh that, based on aerial photography, this office had reason to believe that his property had contained wetlands prior to construction of your residence. Mr. Walsh responded that he had met with Ms. (b) (6) of this office in approximately 1992 and she had told him that the first 100 feet of his property frontage was wetland. Mr. Walsh also told (b) (6) that (b) (6) had said, provided he built his home at least 100 feet back from the road, i.e., outside the wetland area, "everything was okay".

We have contacted (b) (6) and confirmed that she did tell you that the first 100 feet of your lot frontage was wetland and that you should build your house beyond that wetland limit. She stated that she had also told Mr. Walsh that he would be permitted to cross the wetland with a driveway, provided the driveway was straight and held to a minimal width, and may have discussed mitigation for the impacts of the crossing. However, she did not review a formal proposal, nor have we any record of a request for authorization.

While your house has been built outside the wetlands, the placement of gravel for the driveway and the placement of topsoil within the first 100 feet of property frontage of your front yard constitute filling of wetlands.

Section 404 of the Clean Water Act requires that a Department of the Army permit be obtained prior to discharging dredged or fill material or excavation in waters of the United States, including wetlands. Our regulations regarding permit issuance also require that discharges of fill material into

waters of the United States must be minimized or avoided to the maximum extent practicable at a project site. Since your project is not in compliance with the conditions of Nationwide Permit 26, the work is in violation of Section 404 of the Clean Water Act. We have enclosed an extract of the law for your reference.

We are currently conducting an investigation to determine the impact of this work on the public interest and the course of action that should be taken. To ensure that all pertinent information is available for our evaluation and included in the public record, you are invited to provide any information which you feel should be considered. Your plans for utilization of this work and your evaluation of the need for retention may be of particular significance in determining what actions are to be taken. Since the information provided will become a part of the public record, it may be presented in any court action that could result from this investigation. Any information you wish to provide should reach this office no later than October 16, 1995.

If you have questions, please contact (b) (6) at our Utah Regulatory Office, 1403 South 600 West, Suite A, Bountiful, Utah 84010, telephone (801) 295-8380.

Sincerely,

(b) (6)

Chief, Intermountain
Regulatory Section

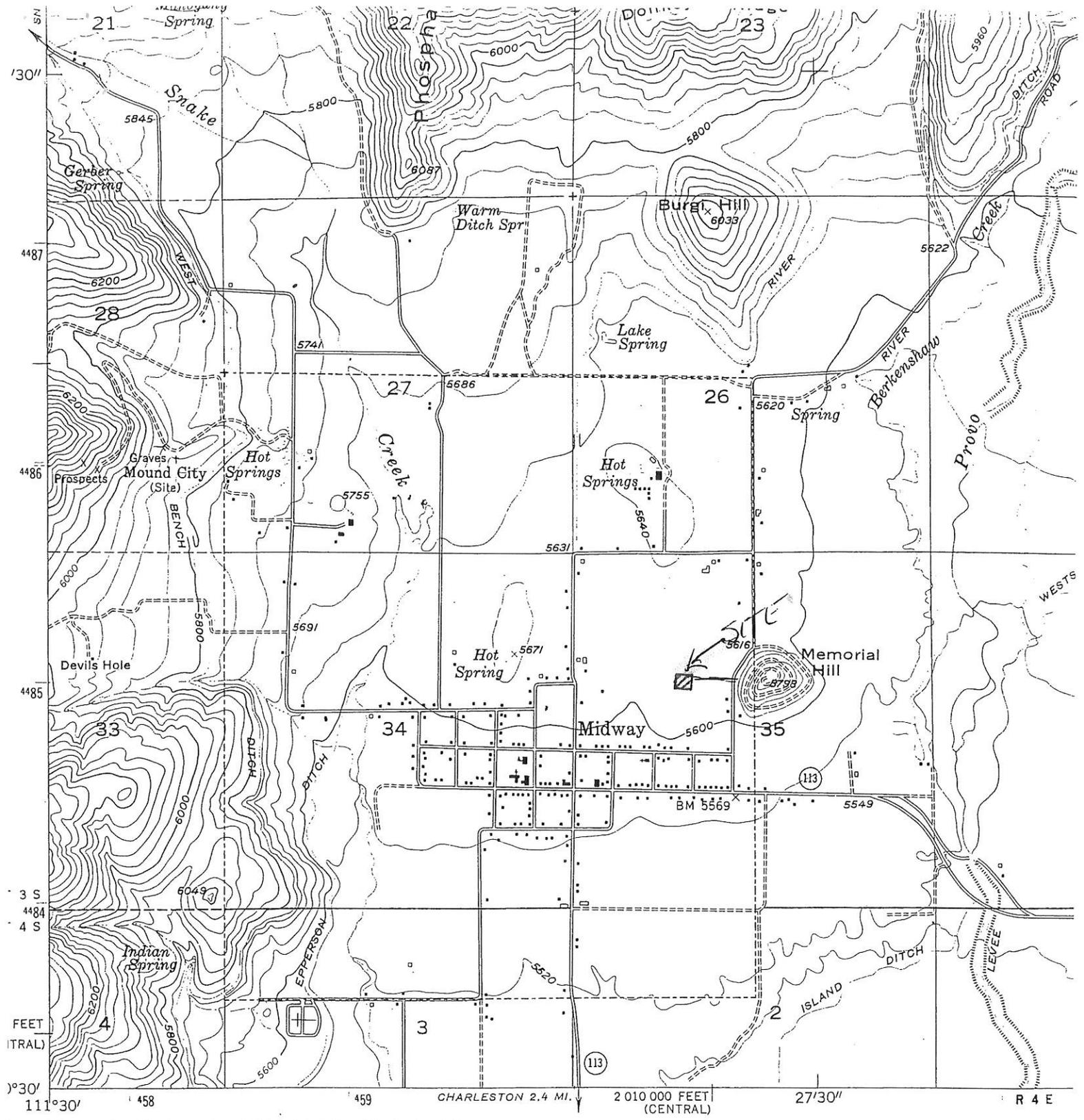
CC: REG BRANCH
INTRMNTN REG SEC ✓

Enclosures

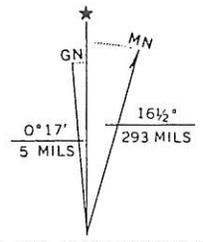
Copies Furnished:

Mr. John Brink, U.S. Environmental Protection Agency
Mr. Bob Winkleman, U.S. Fish and Wildlife Service
Mr. Greg Mladenka, Utah Division of Water Rights
Mr. John Fairchild, Utah Division of Wildlife Resources
Mr. Bob Mathis, Wasatch County Planning Office, 25 N. Main,
Heber City, Utah 84032

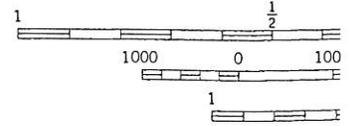
(b) (6)



Mapped, edited, and published by the Geological Survey
 Control by USGS and USC&GS
 Topography from aerial photographs by multiplex methods
 Aerial photographs taken 1953. Field check 1955
 Projection. 1927 North American datum
 Grids based on Utah coordinate system,
 12 zones
 Dashed lines indicate areas in which only
 buildings are shown
 Dotted lines indicate approximate locations
 of roads
 100-meter Universal Transverse Mercator grid ticks,
 12, shown in blue

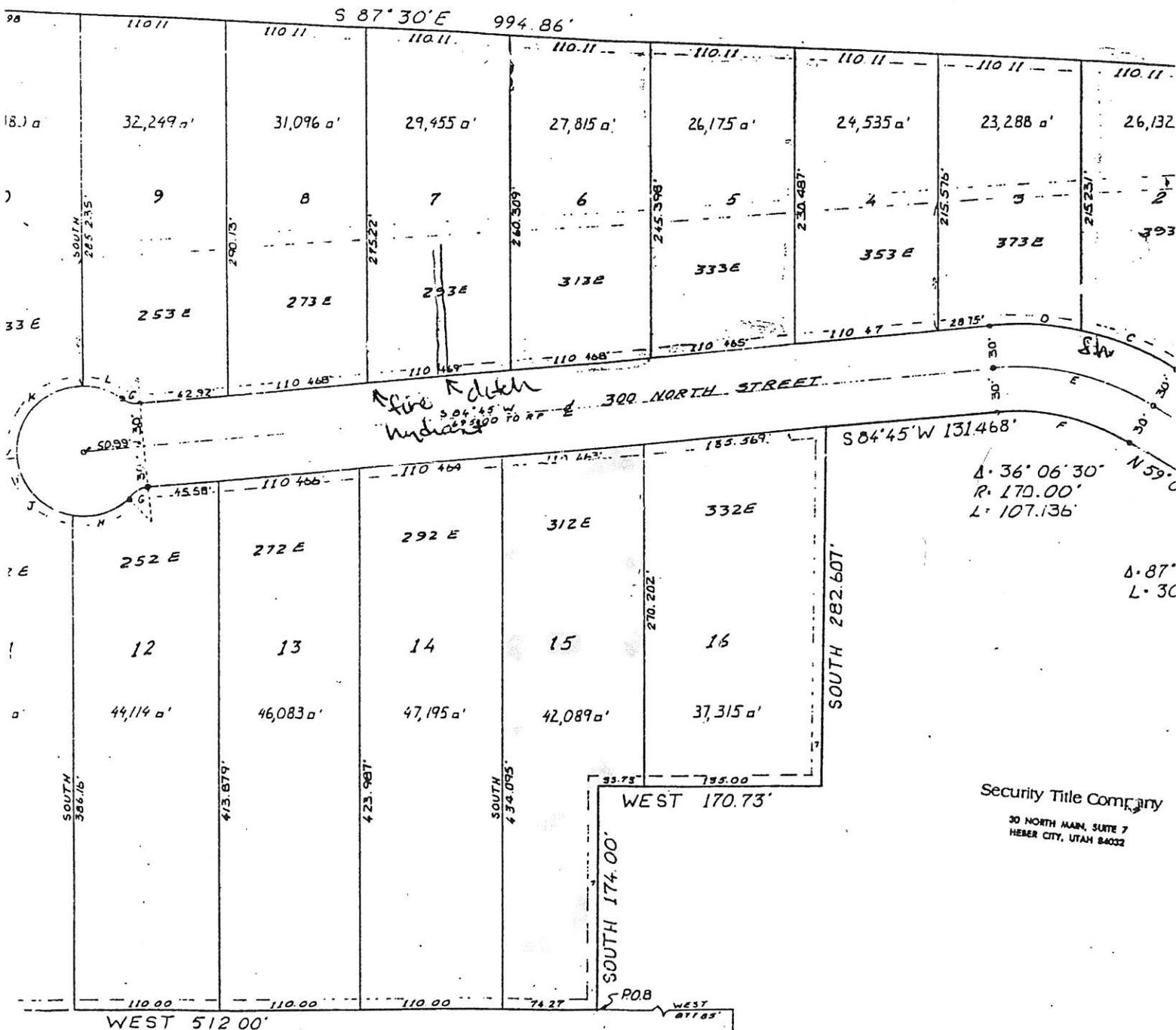


UTM GRID AND 1955 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET



NATIO

199530550
 Encl 1 of 3



Security Title Company
 30 NORTH MAIN, SUITE 7
 HEBER CITY, UTAH 84032

16. PUBLIC UTILITIES IRRIGATION & DRAINAGE
 EASEMENT ON ALL FRONT & REAR LOT LINES

- | | | | | |
|---------------|---|---------------|---|---------------|
| 1 = 8°42'39" | C | Δ = 15°39'03" | D | Δ = 20°27'27" |
| 2 = 1093.00' | | R = 230.00' | | R = 230.00' |
| 3 = 166.17' | | L = 62.83' | | L = 82.12' |
| 4 = 83.25' | | T = 31.61' | | T = 41.50' |
| 5 = 166.01' | | CH = 62.63' | | CH = 81.69' |
| 6 = 34°06'30" | G | Δ = 22°50'00" | H | Δ = 10°00'00" |

FENCE POST
 CENTER OF SEC 35
 T 35 R 2 E S 21 N

#199550550
 Encl 2 of 3

LAWS FOR PROTECTION AND PRESERVATION OF
NAVIGABLE WATERS OF THE UNITED STATES

AND
WATER OF THE UNITED STATES

EXTRACTED FROM

THE CLEAN WATER ACT

Section 404* as codified in 33 U.S.C. 1344 states in part:

"(a) The . . . Chief of Engineers, may issue permits, . . .
for the discharge of dredged or fill material into the
navigable waters . . ."

Section 301* as codified in 33 U.S.C. 1311 states in part:

"(a) Except as in compliance with this section and sections
. . . 1344 . . . the discharge of any pollutant [dredged or
fill material is a pollutant] by any person shall be unlawful."

Section 309* as codified in 33 U.S.C. 1319 states in part:

"(c)(1) Any person who willfully or negligently violates
Section 1311 . . . shall be punished by a fine of not less
than \$2,500 nor more than \$25,000 per day of violation or
by imprisonment for not more than one year, or by both . . ."

* * *

"(d) Any person who violates Section 1311 . . . and any person
who violates any order issued by the Administrator . . . shall
be subject to a civil penalty not to exceed \$10,000 per day of
such violation."

