

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NO. 63-34259	)	PRELIMINARY ORDER
IN THE NAME OF MOON LAKE RANCH	)	REINSTATING A PERMIT
OWNERS ASSN INC	)	
_____	)	

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On January 30, 2017, the Department issued Permit No. 63-34259 ("Permit") in the name of Moon Lake Ranch Owners Assn. Inc. ("Permit Holder") authorizing the diversion of 0.12 cubic feet per second of ground water for aesthetic uses in Government Lot 5 (NW¼SW¼) of Section 14 in Township 4 North, Range 1 West, B.M., Ada County. A condition of permit approval required the Permit Holder to submit proof of beneficial use of water to the Department on or before February 1, 2022.
2. On November 30, 2021, the Department notified the Permit Holder by certified mail that proof of beneficial use was due and instructed the Permit Holder of the steps to be taken to submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") or a *Request for Extension of Time* ("Extension Request").
3. On February 1, 2022, the Permit lapsed because the Department had not received an acceptable Proof or Extension Request.
4. On February 8, 2022, the Department notified the Permit Holder the Permit lapsed because no Proof or Extension Request had been received.
5. On April 8, 2022, the Permit Holder filed an acceptable Proof with a certified water right examiner *Beneficial Use Field Report* showing the water has been put to beneficial use.

CONCLUSIONS OF LAW

Idaho Code § 42-218a (1) states, in pertinent part:

A permit upon which the proof of beneficial use... has not been submitted, or a request for extension of time has not been received on or before the date set for such proof... shall lapse and be of no further force nor effect... Notice of said lapsing shall be sent by the department to the permit holder at the address of record by regular mail.

Idaho Code § 42-218a (2) states:

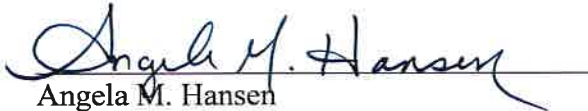
Within sixty (60) days after such notice of lapsing, the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof.

By submitting an acceptable Proof, the Permit Holder has shown reasonable cause why this Permit should be reinstated. The Permit should be reinstated based upon the April 8, 2022 filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 63-34259 is **REINSTATED** and the Permit's priority date is advanced to October 3, 2016.

DATED this 2nd day of September, 2022.


Angela M. Hansen
Water Rights Section Manager

RECEIVED

APR 08 2022

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ _____

Receipt No. _____

Received By _____

Date Received _____

The Idaho Department of Water Resources (Department) considers this form a statement that the permit holder(s) applied water to beneficial use and completed development of a water right to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner (CWRE).** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, complete an Assignment of Permit form. If you wish to relinquish your permit because you have not established the authorized water use and are not applying for an extension, please notify the Department in writing.

1. Permit No. 63-34259 Name of Permit Holder(s) Moon Lake Ranch Owners Association, Inc.
Telephone No. 208-629-7447 Email andy@sawtoothlaw.com
Mailing Address % Sawtooth Law, 1101 W. River St., Ste. 110 City Boise State ID Zip 83702

2. Source of Water Groundwater If Ground Water (well), Date Drilled mo. unkno / yr. _____
Drilling Permit/Tag No. unknown Drilling Company's Name unknown

3. Extent of use(s) completed as authorized by the water right permit:

Domestic (No. households) _____ Irrigation (No. acres) _____ Stockwater (No. and stock type) _____
Other Aesthetic -- artesian flow through existing water feature in subdivision

4. Total diversion rate or volume (storage only) for which proof is submitted 0.12 cfs OR _____ af
If the total developed water use is 5 acres of irrigation or less, is stockwater storage of 14.6 acre-feet or less, or has a diversion rate of less than 0.24 cfs, attach a map of the place of use and point of diversion and photographs showing beneficial use.

5. Describe the diversion and delivery system from the water source to the use (pump, lift, irrigation method, etc.)
Artesian well with a 4-inch discharge to rock slope discharging into subdivision pond.

6. Permit condition compliance. Refer to the permit approval conditions and check all the items required, then check "Yes" or "No" to indicate whether the required items were established, submitted, and/or installed:

Required? Yes No (If "Yes", attach required data, evidence of compliance, or evidence of installation)

- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | Ground water level data, pumping information, or other diversion data |
| ☐ | ☒ | Mitigation plan |
| ☐ | ☒ | Lockable controlling works |
| ☐ | ☒ | Measuring device |
| ☐ | ☒ | Fish screen |
| ☐ | ☒ | Other requirements of the water right permit _____ |
| ☐ | ☒ | Reasonably Anticipated Future Needs ("RAFN") Municipal use |

If RAFN Municipal use, additional increment of beneficial use developed? ☐ Yes (attach CWRE report) ☐ No

7. Fee Enclosed \$ _____ or ☒ CWRE field report attached or ☐ No fee required
See fee schedule on page 3 of the instructions. Proof statements filed without an appropriate fee are incomplete.

8. Person to contact to accompany a Department representative during the field examination of the water system:

Name: n/a Telephone No. _____ Email _____
Mailing Address _____ City _____ State _____ Zip _____

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

SIGNATURE OF PERMIT HOLDER*

PRINTED NAME AND TITLE

DATE

*Attach power of attorney if completing on behalf of permit holder.

Jerry E. Jones Moon Lake Ranch 4-4-2022
HOA President

MEMORANDUM

TO: Water Right File 63-34259

FROM: Daniel Nelson – Analyst 3

DATE: June 27, 2022

SUBJECT: Licensing Review of Water Right 63-34259

The field exam for this right was performed by Certified Water Right Examiner Terry Scanlan of SPF Water Engineering. Mr. Scanlan recommended 0.12 cubic feet per second (cfs) and 86.9 acre-feet (af) for aesthetic use.

History:

The history on this water system is rather long and drawn out. In 1996, Ron Sali filed water right permit 63-12305 for storage and irrigation for a subdivision with several ponds with the Idaho Department of Water Resources (“Department”). Water right 63-12305 includes the artesian well associated with this permit. Due to protests submitted against 63-12305, it was determined that the year-round flow from the artesian wells would not be allowed, and only supplemental irrigation would be allowed from the artesian wells. Permit 63-12305 was approved in 1997 with measurement device conditions and limitations on the artesian wells to only be used for supplemental irrigation.

Field examinations were done on 63-12305 in 2013, and several issues were identified. Some of these issues included that lack of measurement devices, lockable controlling works, and non-stop diversion from the artesian wells. After working with the permit holder for 63-12305, measurement devices and lockable controlling works were installed. The wells were then shut off at the time of licensing this permit. Permit 63-12305 was subsequently licensed in 2014 after the diversions were brought into compliance with the conditions of permit 63-12305.

In 2016, the Department received application for permit 63-34259 requesting year-round use for aesthetic purposes for a water fall from one of the same artesian wells known as Well #3. Water right permit 63-34259 was subsequently approved. The approved permit did not include the measurement and lockable controlling works conditions required under license 63-12305. It has been determined by administrative staff, that we cannot include additional conditions on this permit that were included on 63-12305, since they were not included on the permit. Permit 63-34259 is for year-round use, so it was determined that the measurement devices are only required when Well #3 is being used for supplemental irrigation.

On August 24, 2018, the Department received a field report completed by Alexandra Lynn Clark from Roxanne Brown both of SPF Water Engineering. The Statement of Completion for Submitting Proof of Beneficial Use ("Proof") was not included with the field report and had not submitted to the Department. The field report was returned to SPF Water Engineering until a proof was submitted.

Mr. Scanlan submitted an updated field report and Proof on April 8, 2022. The field report has photos that show the point of diversion. The photos clearly shows the measurement devices installed on the well had been removed. Another concern was that measurement made by Department staff in 2013 was significantly more than the measurements supplied in the field report by Mr. Clark. The diversion rate measured by Ms. Clark was 0.08 cfs compared to the 0.12 cfs measured in 2013. The flow rate measured by Ms. Clark was approximately $\frac{3}{4}$ of the amount measured in 2013. Mr. Scanlan used to the 0.12 cfs amount measured in 2013, since the flows rates of these wells could vary through out the season. It could also mean that the flows in the artesian well has decreased due to overuse as was the concern in 1997 when permit 63-12305 was approved. Mr. Scanlan was correct in using the higher diversion rate of 0.12 cfs measured in 2013.

Reinstatement Review:

It has been determined that this permit should be reinstated and moved forward to licensing. The proof was filed 67 days after Proof was due and 59 days after the Lapsed Notice was sent. The adjusted priority date will be advanced to October 3, 2020. ~~10/3/20~~ ^{10/3/22}

Point of Diversion and Place of Use:

Whereas the point of diversion and place of use were identified in the in the 2013 field work and again in the Mr. Scanlan's field exam, there are no issues with the place of use and point of diversion for this permit.

Diversion Rate and Volume:

As discussed above, the diversion rate measured by Ms. Calk was $\frac{3}{4}$ of diversion rate measured in 2013. There could be several factors that could affect the diversion rate, so I agree with Mr. Scanlan that the diversion rate measured in 2013 of 0.12 cfs should be used. Mr. Scanlan also provided the full volume amount diverted for a non-stop diversion all-year long. This is acceptable because the supplemental use may or may not be used, so this use can be fully diverted even when the supplemental use is not used.

Conditions:

Conditions 930, 004, and the aesthetic use description condition should be carried forward to licensing. Condition 121 should be changed to condition 103 as is standard. As discussed above, none of the conditions included on 63-12305 should be considered for this permit since the water uses are different. There should also be no combined limitations, because 63-12305 is only for supplemental use and may or may not be used.

Boise Office
1101 W. River St.
Suite 110
Boise, Idaho 83702
Tel. (208) 629-7447

Challis Office
1301 E. Main Ave.
P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488

Twin Falls Office
213 Canyon Crest Drive
Suite 200
Twin Falls, Idaho 83301
Tel. (208) 969-9585

Fax (all offices)
(208) 629-7559



SAWTOOTH LAW OFFICES, PLLC

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APR 08 2022

DEPARTMENT OF
WATER RESOURCES

David P. Claiborne

S. Bryce Farris

Evan T. Roth

Daniel V. Steenson

Andrew J. Waldera

Brian A. Faria

Patxi Larrocea-Phillips

John A. Richards

Matthew A. Sturzen

Katie L. Vandenberg-Van Vliet

James R. Bennetts (retired)

Friday, April 08, 2022

Via Hand Delivery

Angela Hansen, Manager
Water Rights Section
Idaho Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, Idaho 83720—0098

Re: Lapse Notice—Permit No. 63-34259

Dear Ms. Hansen:

I write you on behalf of Moon Lake Ranch Owners Association, Inc. ("MLR"), owner of Water Right Permit No. 63-34259 ("Permit"), in response to the Lapse Notice issued by the Department dated February 8, 2022. Enclosed please find the executed beneficial use Statement of Completion signed by current MLR Board President Jerry Jones, as well as the completed Beneficial Use Field Report for the Permit, dated March 16, 2022 ("Report"). MLR requests that the Permit be reinstated pursuant to Idaho Code Section 42-218a.

MLR submits that "reasonable cause" exists supporting Permit reinstatement because MLR recently experienced a complete change in its Board of Directors, and that change coupled with other pending litigation and Eagle Sewer District annexation negotiations, among other community issues, allowed this matter to slip. As you can see from the Permit's online backfile, and from the attached Report, MLR thought that proof of completion had been submitted together with the field exam report because both were in process as early as 2017 (the aesthetic water feature in question was already in use and the Permit was sought to authorize the already occurring use). But, as the Lapse Notice demonstrates, the prior proof submissions were incomplete.

Regardless of the foregoing confusion and community leadership changes, MLR submits both the Statement of Completion and the Report so that the Department can reinstate the Permit consistent with Section 42-218a and proceed with licensing Right No. 63-34259. MLR understands that the priority date of the Permit (and forthcoming license) will be advanced

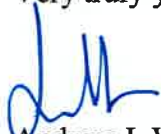
www.sawtoothlaw.com

Attorneys licensed in Idaho, Montana, Oregon and Washington

approximately 60 days (the time period between the date of the Lapse Notice and this submission).

If you have any questions regarding this Permit reinstatement request, or licensing going forward, please feel free to contact me at 208-629-7447.

Very truly yours,



Andrew J. Waldera

AJW/dll

Enclosure

c: Client

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
APR 08 2022
DEPARTMENT OF
WATER RESOURCES

A Beneficial Use Field Report is prepared by a water right examiner as the result of an examination to clearly confirm and establish the extent of the beneficial use of water established in connection with a permit during the development period authorized by the permit and any extensions of time previously approved.

A. GENERAL INFORMATIONPermit No. 63-34259

1. Owner Moonlake Ranch Owners' Association, Inc. Phone No. (208) 286-9666
Current address c/o Star Property Management, P.O. Box 810, Star, ID 83669
2. Examiner's name Alexandra Clark and Terry Scanlan (CWRE 129) EXAM DATE March 23, 2017
3. Accompanied by Christina Bowers Email _____
Address _____
Relationship to permit holder contact for Moonlake Ranch Owners' Assoc. Phone No. 208-286-7330
4. Source Groundwater tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use Irrigation (MMDC, MIA, PDC, DD2), Muni (City of Eagle), 63-12305
2. Other water rights with the same source and point of diversion 63-12305

C. DIVERSION AND DELIVERY SYSTEM

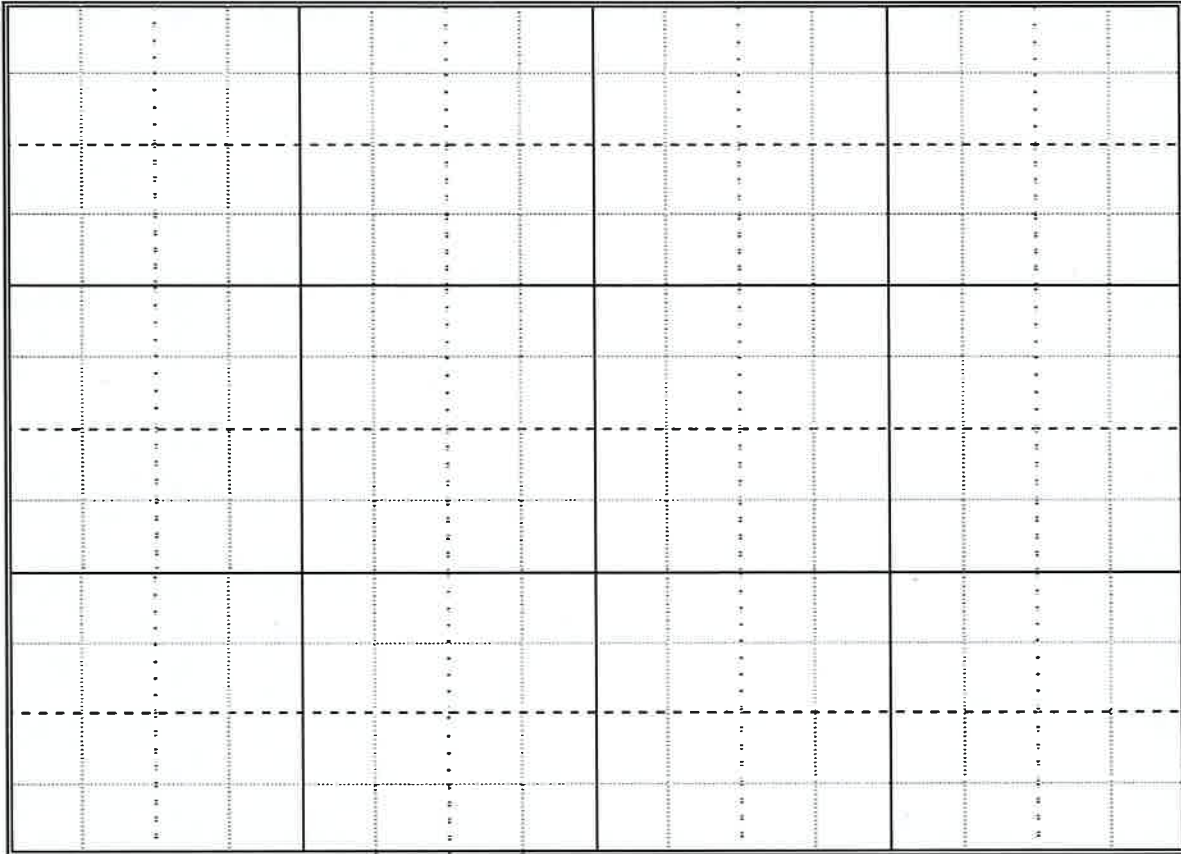
1. Point(s) of Diversion:

Ident. No.	Gov't Lot	¼	¼	¼	Sec	Twp	Rge	County	Method of Determination/Remarks
Well 3	5		NW	SW	14	4N	1W	Ada	Field Exam, 8/16/2013 Photo (Well 3)

2. Place(s) of Use: Method of determination Field Exam, 8/16/2013 Photo

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1W	14										A							
												L5							

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe diameter (inside), as applicable. Use the space provided or ☒ see attached.



Scale: 1" = _____

- ☒ Copy of USGS Quadrangle attached showing location(s) of point(s) of diversion and place(s) of use (**required**)
☐ Aerial photo attached (required for irrigation of 10+ acres)
☒ Photo of diversion and system attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
Well 3	none (artesian)	none	none	none (artesian)	none

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
5-gallon bucket/stopwatch	n/a	n/a	n/a	n/a	5 gallon	3/23/2017

2. **Measurements:** _____

Flow measurement was attempted using an ultrasonic flow meter (Transport PT878); however, a reading could not be taken as the 4-inch discharge pipe was approximately 1/4 to 1/3 full, with the flow valve indicated by Christina Bowers as fully open. Discharge from the end of the pipe was measured over a 10-minute interval using a bucket/stopwatch.

E. NARRATIVE/REMARKS/COMMENTS

An 8-inch diameter artesian well (Artesian Well 3) supplies flow for aesthetic purposes to an existing waterfall feature that discharges to Pond 1. Artesian Well 3 is located on the south side of Pond 1 and on the north side of S. Tranquil Ln. This well was described previously in the beneficial use field report exam for water right 63-12305 performed by IDWR on August 16, 2013. Permit 63-34259 seeks 0.12 cfs between 1/1 and 12/31 based on a measurement taken by IDWR during its August 16, 2013 field exam and historical year-round use in the water feature. The zone of appropriation for Well 3 is 200-245 feet. Caron Pump confirmed the well depth and zone of appropriation on June 27, 2016. No well driller's log was available. The Bowers operate the well for the applicant, which is controlled by a valve shut off. The valve was turned on by Christina Bower on March 23, 2017 to full capacity, and the well flowed for the exam. Discharge from the well is through a 4-inch diameter steel pipe immediately to the slope that discharges to the pond. Artesian Well 3 is used to supply flow over the water feature slope under permit 63-34259 and flow to Pond 1 under water right 63-12305. An IDWR letter in the permit file dated 8/28/2018 suggests that the 2013 flow measurement could be used for licensing rate and volume for 63-34259.

Attachment A is a copy of the permit. Attachment B is a topographical map of the point of diversion and place of use. Attachment C includes photographs of the well and place of use. Attachment D describes flow calculations based on measurements taken on March 23, 2017 and on August 16, 2013.

Volume calculation is based on historical year-round use of the well for the water feature, including winter-time use to keep an area of the pond clear of ice for use by water fowl. This does not qualify as a wildlife use; the intent is for beneficial use for aesthetics.

The original of this exam report was prepared by Alexandra Clark (CWRE 156) of SPF Water Engineering in March 2017. SPF was unable to obtain a signed Statement of Completion from permit holder, and subsequently submitted the field exam to IDWR in August 2018, then withdrew the exam based on IDWR suggestion. This field report uses the data collected in the 2017 exam.

Has the permit holder met all conditions of permit approval, including any mitigation requirements and/or measuring device installation requirements? ☒ Yes ☐ No If no, what must be done to meet the permit requirements?

F. FLOW CALCULATIONS☒ Additional computation sheets attachedMeasured Method:
See Attachment D.

Diversion rate from point of diversion in lot 5 (Well 3) not to exceed 0.12 cfs in combination with 63-12305.

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

 $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

0.12 cfs x 365 days x 1.9835 = 86.9 ac-ft

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Aesthetic	1/1	12/31	0.12	86.9
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			<u>0.12</u>	<u>86.9</u>

2. Recommended Amendments

- ☐ Change P.D. as reflected on page 1 ☐ Add P.D. as reflected on page 1 ☒ None
☐ Change P.U. as reflected on page 1 ☐ Add P.U. as reflected on page 1 ☐ Other

I. AUTHENTICATION

Field Examiner's Signature

Terry M. Scanlan

Date

March 16, 2022

Reviewer _____

Date _____



Attachment A - Permit

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-34259

Priority: August 05, 2016

Maximum Diversion Rate: 0.12 CFS

This is to certify, that MOON LAKE RANCH OWNERS ASSN INC
PO BOX 810
STAR ID 83669

has applied for a permit to appropriate water from:

Source: GROUND WATER

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>
AESTHETIC	01/01 to 12/31	0.12 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L5 (NW¼SW¼) Sec. 14, Twp 04N, Rge 01W, B.M. ADA County

PLACE OF USE: AESTHETIC

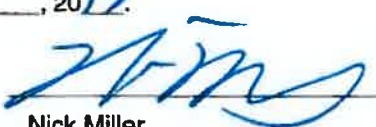
Twp	Rge	Sec	NE	NW	SW	SE	Totals
04N	01W	14			X		
					L5		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before February 01, 2022.
2. Subject to all prior water rights.
3. Water bearing zone to be appropriated is 200 to 245 feet.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. This right does not grant any right-of-way or easement across the land of another.
6. Aesthetic use is for an existing water feature (waterfall).
7. 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 the permit holder had no control.
8. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 30th day of January, 2017.


Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water
63-34259

This map depicts the AESTHETIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

01W

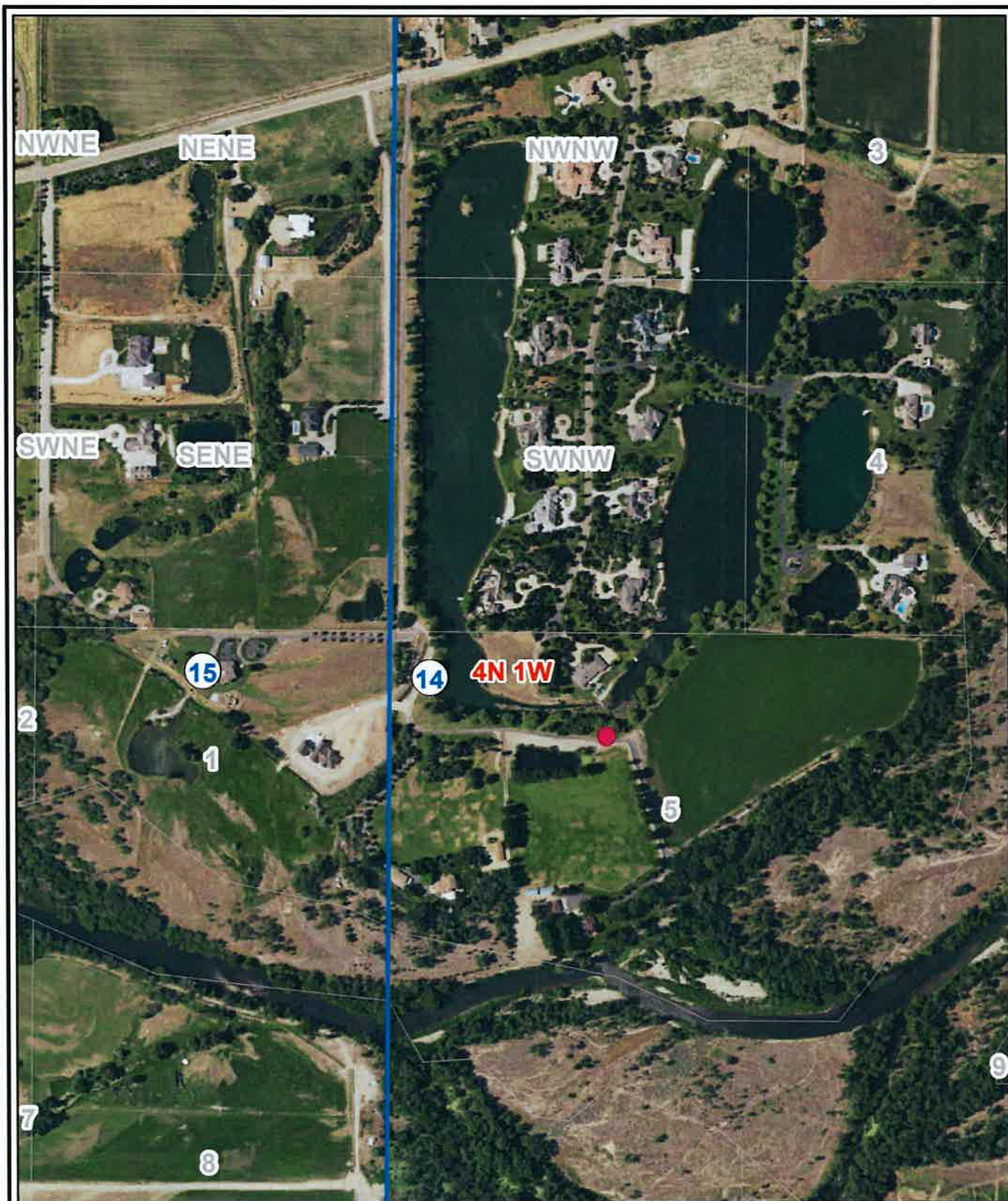


0 0.035 0.07 0.14 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections



Attachment B - Map



● Point of Diversion and Place of Use

Permit 63-34259 - Location



500

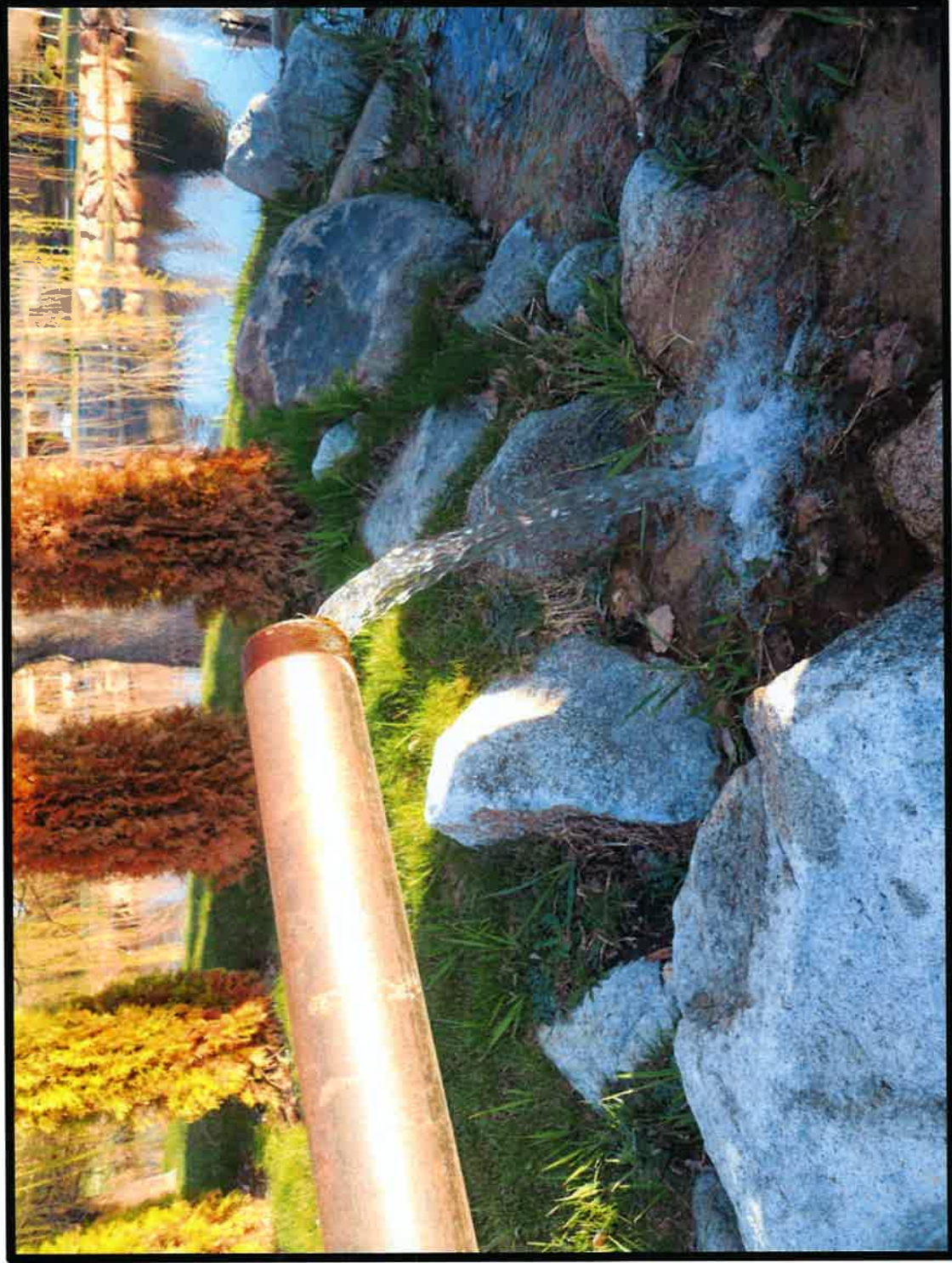
Feet



Attachment C - Photographs



Artesian Well #3



Discharge during March 23, 2017, Field Exam



Artesian Well #3, Existing Water Feature, and Place of Use (Pond #1)

Attachment D - Flow Calculations

FLOW CALCULATIONS

August 16, 2013

Measurements were made by IDWR using an orifice weir and a portable flow meter at Artesian Well #3 on August 16, 2013. See beneficial use field report for 63-12305. Measured rate was 53 gpm (0.12 cfs).

March 23, 2017

A 5-gallon capacity plastic bucket was used by SPF Water Engineering to measure flow from the 4-inch discharge line from Artesian Well #3 during five, separate tests (noted below) on March 23, 2017. The bucket was filled to a level corresponding with 4-gallons based on 'calibration' of the bucket. The calibration was performed by filling the 5-gallon bucket with water to the 'fill' line and weighing the bucket. The measured weight of 34.1 pounds is equivalent to 4.1 gallons (using a conversion factor of 8.34 pounds per 1 gallon of water).

Test 1: 6.80 seconds to fill 5-gal bucket to 4-gal line = 35 gpm

Test 2: 7.24 seconds to fill 5-gal bucket to 4-gal line = 33 gpm

Test 3: 6.28 seconds to fill 5-gal bucket to 4-gal line = 38 gpm

Test 4: 6.54 seconds to fill 5-gal bucket to 4-gal line = 36 gpm

Test 5: 6.87 seconds to fill 5-gal bucket to 4-gal line = 34 gpm

The average flow rate based on the above five tests is 35.2 gpm (0.08 cfs).

The larger of the two measurements, 0.12 cfs, is proposed for licensing.



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098

Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

September 6, 2022

MOON LAKE RANCH OWNERS ASSN INC
PO BOX 810
STAR ID 83669

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 63-34259

Dear Permit Holder:

The Department acknowledges receipt of the Proof of Beneficial Use form ("proof") and license examination fee for the above-referenced water right permit. Enclosed is an order that reinstates this permit since proof and the license examination fee were submitted after the proof deadline. Please note that the priority date for this permit has been advanced to **October 3, 2016**, pursuant to Idaho Code § 42-218a(2).

The next step in the process of developing a water right is for the Department to conduct a field examination to determine and confirm the use being made of the water according to the conditions of the permit.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the field examination, please contact the State Office at (208) 287-4800.

Sincerely,

Debbi Judd
Technical Records Specialist

Enclosures

c: HDR INC – via email

CERTIFICATE OF SERVICE

I hereby certify that on **September 02, 2022** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER REINSTATING A PERMIT**) to the persons listed below:

RE: Preliminary Order in the Matter of Permit No. **63-34259**

MOON LAKE RANCH OWNERS ASSN INC
PO BOX 810
STAR ID 83669

HDR INC
C/O SCOTT N KING – *via email*
300 E MALLARD DR STE 350
BOISE ID 83706
scott.king@hdrinc.com



Debbi Judd
Technical Records Specialist

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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 this order. **Note: the petition must be received by the department within this fourteen (14) day period.** 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 fourteen (14) 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 this 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director 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 Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director 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 Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director 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 Director 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 service date 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.