

State of Idaho
 Department of Water Resources
Permit to Appropriate Water
 No. 63-34550

Priority: May 30, 2018

Maximum Diversion Volume: 37.0 AF

This is to certify that

BRIDGETOWER WEST HOMEOWNERS ASSN LLC
 C/O MGM MANAGEMENT 289 SW 5TH AVE MERIDIAN ID 83642-2997

has applied for a permit to appropriate water from:

Source : GROUND WATER

Tributary: BOISE RIVER

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
AESTHETIC STORAGE	01/01 to 12/31	37.0 AF

Location of Point(s) of Diversion

GROUND WATER NW¼ SE¼, Sec. 27, Twp 04N, Rge 01W, B.M. ADA County

Place of Use: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
04N	01W	27																	X				

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2026**.
2. Subject to all prior water rights.
3. Right 63-34550 authorizes a total annual storage volume of 37 acre-feet, 32.3 acre-feet to be used for the initial filling or carryover storage of the pond and approximately 4.7 acre-feet for the replacement of losses caused by evaporation.
4. The pond established by the storage of water under this right shall not exceed a total capacity of 32.3 acre-feet or a total surface area of 2.0 acres.
5. Water bearing zone to be appropriated is 0 to 17 feet.
6. This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.
7. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
8. To mitigate for the depletion of water resulting from the use of water under this right and to prevent

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34550

injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation by Non-Use	Mitigation Rate (cfs)	Mitigation Acres
63-185B	Irrigation	0.04	2.0

The land that will no longer be irrigated under the mitigating rights is located within the service area of South Boise Water Company. Additionally, associated rights 63-148C, 63-150, 63-185A, 63-185B, 63-2392C and 63-2392D for the South Boise Water Company service area will be modified to reduce authorized irrigation acreage by 2.0 acres to prevent enlargement.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable at a rate equal to or greater than 60% of the face value due to a shortage of water or a priority call, the right holder shall cease diversion, shall rent water from the Boise River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use.

9. 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 Idaho Code § 42-204.

Signed this 29th day of November, 2021.



NICK MILLER
 Western Regional Manager






State of Idaho
Department of Water Resources
Attachment to Permit to Appropriate Water
63-34550

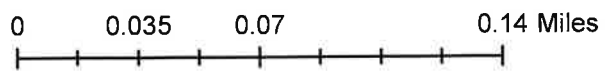
This map depicts the AESTHETIC STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

01W



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

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





November 29, 2021

BRIDGE TOWER WEST HOMEOWNERS ASSN LLC
C/O MGM MANAGEMENT
289 SW 5TH AVE
MERIDIAN ID 83642-2997

RE: Permit No. 63-34550

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources (“Department”) has issued the enclosed permit authorizing you to establish a new water right. The Department received an Assignment of Application for Permit in the matter of Water Right No. 63-34550 on November 5, 2021. The water right is now assigned to Bridge Tower West Homeowners’ Association LLC c/o MGM Management. A copy of the assignment is enclosed for your records.

Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department’s Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit 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 enclosed information, please contact me at (208) 334-2190.

Sincerely,



DENISE LAUERMAN

for Nick Miller
Western Regional Manager

Enclosures

CC:

CITY OF MERIDIAN C/O HONSINGER LAW PLLC ATTN CHARLES L HONSINGER
PO BOX 517 BOISE ID 83701
COTTONWOOD DEVELOPMENT LLC 398 E COPPER RIDGE ST MERIDIAN ID

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, I served a true and correct copy of Permit to Appropriate Water No. 63-34550 by U.S. Mail, postage prepaid, to the following:

BRIDGETOWER WEST HOMEOWNERS ASSN LLC (Current Owner)
C/O MGM MANAGEMENT
289 SW 5TH AVE
MERIDIAN ID 83642-2997

SPF WATER ENGINEERING LLC (Representative)
C/O SCOTT N KING
300 E MALLARD DR STE 350
BOISE ID 83706



Denise Lauerman
Administrative Assistant

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.

RECEIVED

NOV 05 2021

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR PERMIT
To change the ownership of an application for permit

I, Cottonwood Development LLC, hereby assign to BridgeTower West Homeowners' Association LLC
Current applicant New applicant(s)
of, c/o MGM Management, 289 SW 5th Ave, Meridian, Idaho 83642
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Application for Permit No(s): 63-34550
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s):
_____, to appropriate the public waters of the State of Idaho.

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

Does the new applicant own the property at the:

Point of diversion? Yes No
Place of use? Yes No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:
The property will be conveyed by Cottonwood Development LLC to BridgeTower West Homeowners' Association
LLC.

Dated this 05 day of November, 20 21.

[Signature] manager _____
Signature of current applicant Title (if applicable) Signature of current applicant Title (if applicable)

State of Idaho)
County of Ada)ss

On this 05 day of November, 20 21, personally appeared before me the signer(s) of the above
instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL 

[Signature]
Notary Public
My commission expires: 07-08-2025



RECEIVED

JUN 04 2021

WATER RESOURCES
WESTERN REGION

June 2, 2021

Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705-2348

Attn: Nick Miller

*Subject: Cottonwood Development LLC Application for Permit No. 63-34550
Second Amended Application for Permit*

Nick,

Enclosed is a second amended application for permit for Cottonwood Development LLC. This amendment removes the proposed new well which was to supply mitigation water for pond evaporation. Mitigation will instead be provided with canal shares remaining in the Boise River. An executed mitigation plan and agreement between Cottonwood Development LLC and South Boise Water Company was submitted to your office last week.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott N. King".

Scott N. King, P.E.
Project Manager

cc: Jennifer Landers, Cottonwood Development

File: 1359.0011

RECEIVED

Amended
JUL 27 2018

RECEIVED

JUN 04 2021

RECEIVED

MAY 24 2018

WATER RESOURCES
WESTERN REGION

WATER RESOURCES
WESTERN REGION

FORM 202 Rev 09/16 WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident No 63-34550

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Cottonwood Development LLC Phone 208-895-8858

Name connector (check one): and or and/or

Mailing address 398 E. Copper Ridge St City Meridian

State ID _____ ZIP 83846 Email shawn@trilogydaho.com jlandersmanagement@outlook.com

2. Name of representative, if any SPF Water Engineering Phone 208-383-4140

Mailing address 300 E Mallard Dr, Ste 350 City Boise

State ID _____ ZIP 83706 Email sking@spfwater.com

- a. Send all correspondence for this application to the representative and not to the applicant OR
- Send original correspondence to the applicant and copies to the representative.
- b. The representative may submit information for the applicant but is not authorized to sign for the applicant OR
- The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.

3. Source of water supply Ground Water which is a tributary of Boise River

4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	%	%	%	County	Source	Local name or tag #
4N	1W	27			NW	SE	Ada	Ground Water	Pond
					NW	SE			Well

5. Water will be used for the following purposes:

Amount 37.0 ac-ft for Aesthetic Storage purposes from 1/1 to 12/31 (both dates inclusive)

Amount ~~5-0-0 cfs~~ for ~~Diversion to Storage~~ purposes from ~~1/1~~ to ~~12/31~~ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

6. Total quantity to be appropriated is (a) 0.04 cubic feet per second (cfs) and/or (b) 37 acre-feet per year (af)

7. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. 2 - acre pond, 10 ft average depth

b. Height of storage dam n/a feet; active reservoir capacity 32.3 acre-feet; total reservoir capacity 20 acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? Yes No

c. Proposed well diameter is 4-6 inches; proposed depth of well is 300 feet.

d. Is ground water with a temperature of greater than 85°F being sought? Yes No

e. If well is already drilled, when? _____; drilling firm _____ well was drilled for (well owner) _____, Drilling Permit No. _____

Received by CS Date 5/24/18 Time 10:20 Preliminary check by CP
 Fee \$ 250⁰⁰ Received by CS Receipt No W046374 Date 5/24/18

8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
 - d. Domestic; show number of households _____
 - e. Other; describe fully. Pond for aesthetic use

9. Description of place of use:
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1W	27															X		

Total number of acres to be irrigated: _____ X = aesthetic storage & diversion to storage pou *M.M.*

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
 b. Who owns the land to be irrigated or place of use? Applicant
 c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

- M.M.* 12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Pond water bearing zone to be appropriated is from 0 to 17 feet. Well water bearing zone to be appropriated is from 200 to 300 feet. Ground water from the well will be used to mitigate the the evaporative losses resulting from the pond. See attached mitigation plan to offset consumptive evaporative losses.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8 1/2" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Michael McCollum
 Signature of Applicant
Michael McCollum
 Print Name (and title, if applicable)

 Signature of Applicant

 Print Name (and title, if applicable)

JUN 01 2021



May 27, 2021

Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705-2348

Attn: Nick Miller

*Subject: Cottonwood Development LLC Application for Permit No. 63-34550
Mitigation Plan*

Nick,

Enclosed is an executed mitigation plan and agreement between Cottonwood Development LLC and South Boise Water Company. An amendment to the permit application removing the proposed well and groundwater supply as mitigation is forthcoming.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott", is written over a light blue circular stamp.

Scott N. King, P.E.
Project Manager

cc: Jennifer Landers, Cottonwood Development

File: 1359.0011

JUN 01 2021

MITIGATION PLAN FOR COTTONWOOD DEVELOPMENT LLC

Application for Permit 63-34550

To the Idaho Department of Water Resources (IDWR):

The South Boise Water Company ("Company") agrees to dedicate 20 mitigation shares representing non-diversion 0.04 cfs of Boise River water right and idled irrigation of 2 acres to mitigate consumptive use of diversions under the above referenced application. Each ten mitigation shares of the Company's water rights are equal to 1 miners inch or 0.02 cfs of Boise River water right for mitigation of one acre of irrigation at 100% delivery. The Company and Cottonwood Development LLC agree to this mitigation plan as follows:

1. Cottonwood Development LLC propose year-round diversion of water from shallow groundwater considered tributary to the Boise River for aesthetic purposes under the above-referenced application for permit. The diversion consists of an unlined pond intercepting shallow groundwater and having a surface area of 2 acres.
2. The annual consumptive use from the project is equivalent to the consumptive use of 2 acres of turf grass in the Company service area based on ET Idaho mean precipitation deficit for the period of April through October calculated using the Boise Airport weather data.
3. Company water right 63-185B provides natural flow diverted from the Boise River to the Company's place of use. Mitigation for impacts to irrigation-season Boise River natural flows resulting from the Cottonwood Development diversion will be provided by idling irrigation of 2 acres (0.04 cfs) under the Company's four Boise River irrigation water rights. To simplify the process, the 0.04 cfs of water for mitigation should be recorded in a single water right, 63-185B with a priority date of June 1, 1871, although reduction in irrigated acres will be recorded in all four Boise River rights. The Boise River Watermaster will not deliver this portion of the water right to the Company headgate while this mitigation plan is in force.
4. Upon IDWR approval of the application for permit and this mitigation plan, the Company understands IDWR will change the description of 0.04 cfs of water right 63-185B from irrigation to mitigation. This will protect the unused shares and water right from forfeiture according to I. C. §42-223(10).
5. The applicant and any successors in interest for the application, permit, or water right will hold a certificate for the water shares and pay the Company mitigation assessments for the mitigation shares every year.
6. To the extent development proposed in the Cottonwood Development application is not fully completed, the Company understands this process is reversible by contacting IDWR with appropriate information for water and acres set aside for mitigation to be fully restored to irrigation use.

M.M.
B.E.

By: **South Boise Water Company**

Signature: Bary Eschen

Title: Board Member

Date: 6-24-21

By: **Cottonwood Development LLC**, *Michael McCallum*

Signature: *Michael McCallum*

Title: *MANAGER*

Date: 5/18/21