

State of Idaho
Department of Water Resources

AMENDED**Permit to Appropriate Water****AMENDED**

No. 63-34831

Priority: December 16, 2019**Maximum Diversion Volume:** 288.0 AF

This is to certify that

TPC BROOKLYN PARK INVESTORS LLC 430 E STATE ST STE 100 EAGLE ID 83616-5901

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:

Beneficial Use

AESTHETIC STORAGE

Period of Use

01/01 to 12/31

Annual Volume

288.0 AF

Location of Point(s) of Diversion

GROUND WATER SE¼ SW¼, Sec. 15, Twp 04N, Rge 01E, 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	01E	15									X L3			X L3					

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2026**.
2. Subject to all prior water rights.
3. Rights 63-146 and 63-34831 authorize a total annual storage volume of 288 acre-feet, 230 acre-feet to be used for the initial filling or carryover storage of the pond and up to 78.0 acre-feet for the replacement of losses caused by evaporation and/or refill.
4. The one (1) pond established by the storage of water under this right shall not exceed a total capacity of 230 acre-feet or a total surface area of 25.5 acres.
5. Per Transfer 83799, Right 63-146 authorizes the diversion of up to 0.51 cfs and 78.9 af of water to storage to offset evaporation losses from the pond authorized by this right.
6. Water bearing zone to be appropriated is 0 to 45 feet.
7. This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.
8. 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.
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.

State of Idaho
Department of Water Resources

AMENDED

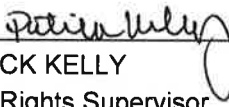
Permit to Appropriate Water

AMENDED

No. 63-34831

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

Signed this 06th day of January, 20 21.


PATRICK KELLY
Water Rights Supervisor



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34831

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.

01E



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

0 0.05 0.1 0.2 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

January 6, 2021

TPC BROOKLYN PARK INVESTORS LLC
430 E STATE ST STE 100
EAGLE ID 83616-5901

RE: Permit No. 63-34831

Amended Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. 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

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2021, I served a true and correct copy of Amended Permit to Appropriate Water No. 63-34831 by U.S. Mail, postage prepaid, to the following:

TPC BROOKLYN PARK INVESTORS LLC (Current Owner)
430 E STATE ST STE 100
EAGLE ID 83616-5901

SPF WATER ENGINEERING LLC (Representative)
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660


Denise Lauerman
Administrative Assistant 1

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.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34831

Priority: December 16, 2019

Maximum Diversion Volume: 288.0 AF

This is to certify that

TPC BROOKLYN PARK INVESTORS LLC 430 E STATE ST STE 100 EAGLE ID 83616-5901

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Source : GROUND WATER

Tributary: BOISE RIVER

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

Beneficial Use

AESTHETIC STORAGE

Period of Use

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GROUND WATER SE¼ SW¼, Sec. 15, Twp 04N, Rge 01E, 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	01E	15									X L3			X L3					

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2026**.
2. Subject to all prior water rights.
3. Rights 63-146 and 63-34831 authorize a total annual storage volume of 288 acre-feet, 230 acre-feet to be used for the initial filling or carryover storage of the pond and up to 78.0 acre-feet for the replacement of losses caused by evaporation and/or refill.
4. The one (1) pond established by the storage of water under this right shall not exceed a total capacity of 230 acre-feet or a total surface area of 25.5 acres.
5. Per Transfer 83799, Right 63-146 authorizes the diversion of up to 0.51 cfs and 78.9 af of water to storage to offset evaporation losses from the pond authorized by this right.
6. The right holder shall maintain control of 19.6 shares of New Union Ditch Co representing the portion of Right 63-146 used for storage purposes in concert with this right.
7. Water bearing zone to be appropriated is 0 to 45 feet.
8. This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.
9. 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.
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State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34831

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

Signed this 30th day of December, 2020.



PATRICK KELLY
Water Rights Supervisor



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34831

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01E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
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0 0.05 0.1 0.2 Miles





Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Gary Spackman
Director

December 30, 2020

TPC BROOKLYN PARK INVESTORS LLC
430 E STATE ST STE 100
EAGLE ID 83616-5901

RE: Permit No. 63-34831

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DENISE LAUERMAN

for Nick Miller
Western Regional Manager

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C/O LORI GRAVES
300 E MALLARD DR STE 350
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Denise Lauerman
Administrative Assistant 1

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- 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.

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JAN 27 2020

WATER RESOURCES
WESTERN REGION

Idaho Statesman

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AFFIDAVIT OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Depth
263978	0004522967	The following applications have been filed to appropriate the public waters of the State of Idaho:	Notice 63-34700, 63-34701, 63-34831	\$312.50	2	9.67 In

Attention: Kensie Thorneycroft

IDAHO DEPT OF WATER RESOURCES / WEST
2735 AIRPORT WAY
BOISE, ID 837055082

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34700

ISLAND WOODS HOMEOWNERS ASSOCIATION INC
PO BOX 193
EAGLE, ID 83616-6342
Point of Diversion L6(SESW) S16 T04N R01E ADA County Source
GROUND WATER
Point of Diversion L5(NWSW) S16 T04N R01E ADA County Source
GROUND WATER
Point of Diversion SWSW S16 T04N R01E ADA County Source
GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.36 CFS
Total Diversion: 0.36 CFS
Date Filed: 4/4/2019
Place Of Use: IRRIGATION
T04N R01E S16 L5(SWNW) L6(NESW) L5(NWSW) SWSW
L6(SESW) L7(SWSE)
T04N R01E S21 L4(NWNW)
Total Acres: 24
Water bearing zone to be appropriated is 0 to 20 feet.
Mitigation is proposed for consumptive use.

63-34701

ISLAND WOODS HOMEOWNERS ASSOCIATION INC
PO BOX 193
EAGLE, ID 83616-6342
(3) Point of Diversion L5(NWSW) S16 T04N R01E ADA County
Source GROUND WATER
(3) Point of Diversion SWSW S16 T04N R01E ADA County Source
GROUND WATER
(6) Point of Diversion L6(SESW)
S16 T04N R01E ADA County Source GROUND WATER
Point of Diversion L6(NESW) S16 T04N R01E ADA County Source
GROUND WATER
Use: AESTHETIC 01/01 to 12/31 315.5 AF
Use: RECREATION STORAGE 01/01 to 12/31 315.5 AF
Total Diversion: 315.5 AF
Date Filed: 4/4/2019
Place Of Use: AESTHETIC, RECREATION STORAGE
T04N R01E S16 L6(NESW) L5(NWSW) SWSW L6(SESW)
Water bearing zone to be appropriated is from 0 to 20 feet.
Mitigation is proposed for consumptive use.

63-34831

TPC BROOKLYN PARK INVESTORS LLC
430 E STATE ST STE 100
EAGLE, ID 83616-5901
Point of Diversion SESW S15 T04N R01E ADA County Source
GROUND WATER Tributary BOISE RIVER
Use: AESTHETIC STORAGE 01/01 to 12/31 288 AF
Total Diversion: 288 AF
Date Filed: 12/16/2019
Place Of Use: AESTHETIC STORAGE
T04N R01E S15 L3(NESW) L3(SESW)
Water bearing zone to be appropriated is from 0 to 45 feet.
Mitigation by transfer 83799 is proposed for consumptive use.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 83799

NEW UNION DITCH CO LTD, PO BOX 31, EAGLE, ID 83616
has filed Application No. 83799 for changes to the following wa-
ter rights within ADA County(s): Right No(s). 63-146; to see a full de-

VICTORIA RODELA, being duly sworn,
deposes and says: That she is the
Principal Clerk of The Idaho
Statesman, a daily newspaper printed
and published at Boise, Ada County,
State of Idaho, and having a
general circulation therein, and which
said newspaper has been
continuously and uninterrupted
published in said County during a
period of twelve consecutive months
prior to the first publication of the
notice, a copy of which is attached
hereto: that said notice was published
in The Idaho Statesman, in conformity
with Section 60-108, Idaho Code, as
amended, for:

2 Insertions

Beginning issue of: 01/16/2020

Ending issue of: 01/23/2020

V Rodela

(Legals Clerk)

On this 23rd day of January in the year
of 2020 before me, a Notary Public,
personally appeared before me
Victoria Rodela known or identified to
me to be the person whose name
subscribed to the within instrument,
and being by first duly sworn,
declared that the statements therein
are true, and acknowledged to me
that she executed the same.

Ambar Lizarraga

Notary Public in and for the state of
Texas, residing in Dallas County



AMBAR LIZARRAGA
My Notary ID # 132031291
Expires May 30, 2023

Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

scription or these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: The purpose of this transfer is to convert 0.51 cfs and 78.9 af of water from irrigation uses to diversion to storage and aesthetic storage uses for the purpose of replacing evaporation losses from one (1) 25.5-acre pond associated with Water Right 63-34831. Water will be used within the current place of use near Eagle, 0.3 miles west of the intersection of Hwy 44 and Edgewood Ln., just south of State Hwy 44, and just north of the Boise River. Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at 208-334-2190; or for a full description of the right(s) or proposed transfer (s) please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 02/03/2020. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Published on 1/16/2020 and 1/23/2020

0004522967-01



ATTORNEYS AND COUNSELORS

Hawley Troxell Ennis & Hawley LLP
877 Main Street, Suite 1000
P.O. Box 1617
Boise, Idaho 83701-1617
208.344.6000
www.hawleytroxell.com

DANA L. HOFSTETTER
MAIL: DHOFSTETTER@HAWLEYTROXELL.COM
DIRECT DIAL: 208-388-4867
DIRECT FAX: 208-954-4867

RECEIVED

FEB 05 2020

WATER RESOURCES
WESTERN REGION

February 3, 2020

VIA U.S. MAIL AND FACSIMILE (208-334-2348)

Director
c/o Nick Miller
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: *Application for Permit No. 63-34831*

Dear Mr. Miller:

On behalf of Edwards Family LLC, I hereby submit the following comment in lieu of a formal Protest regarding Application for Permit No. 63-34831 (the "Application"). The Application proposes diversions from ground water within the boundaries of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area. If the Application is approved, it should be conditioned to prevent the diversion of geothermal water and to assure that only cold water is diverted and to require monitoring to assure no geothermal water is diverted.

Please contact me if you have any further questions or need further information. Thank you.

Sincerely,

HAWLEY TROXELL ENNIS & HAWLEY LLP

Dana L. Hofstetter

DH:tas

cc: TPC Brooklyn Park Investors, 430 E. State Street, Ste. 100, Eagle, Idaho 83616
SPF Water Engineering, LLC