

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 63-12477

Priority: November 09, 1998

Maximum Diversion Volume: 11.0 AF

It is hereby certified that:

STREAMSIDE HOMEOWNERS ASSOC INC 9601 W STATE ST STE 203 BOISE ID 83714-4021

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 13, 1998, and has submitted Proof of Beneficial Use on June 08, 1999. An examination confirms water is diverted from:

Source : GROUND WATER

Beneficial Use

AESTHETIC STORAGE

Period of Use

1/01 to 12/31

Annual Volume

11.0 AF

Location of Point(s) of Diversion

GROUND WATER L3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 20, Twp 04N, Rge 01E, B.M. ADA County

GROUND WATER L2 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 20, Twp 04N, Rge 01E, B.M. ADA County

Place of Use: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N	01E	20		X	X		X													
							L3													
04N	01E	20		X	X															
				L2	L2															

Conditions of Approval

1. Point of diversions are located within Lot 2, Blk. 3, and Lot 11, Blk. 2, Streamside Subdivision.
2. Place of use is located within Lot 2, Blk. 3, and Lot 11, Blk. 2, Streamside Subdivision.
3. The two (2) ponds established by the storage of water under this right shall not exceed a total capacity of 11 acre-feet or a total surface area of 2.7 acres.
4. Rights 63-144D and 63-12477 authorize the storage of an annual total of 11 acre-feet, comprised of 11 acre-feet to be used for the initial filling or carryover storage of the ponds, and up to 11 acre-feet for irrigation from storage use.

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

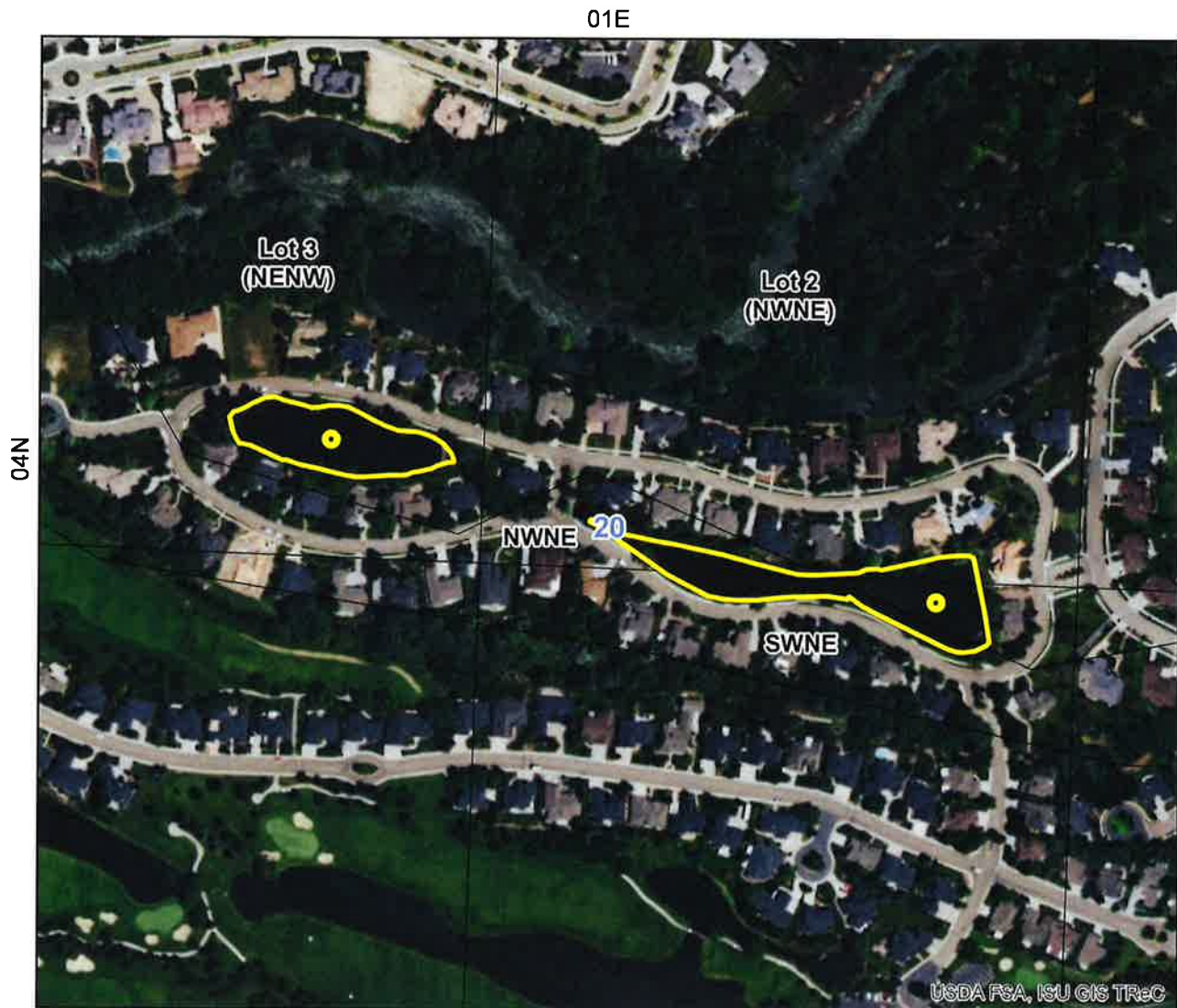
Signed this 20th day of May, 2019.



ANGELA GRIMM
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-12477

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.



-  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

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

May 22, 2019

STREAMSIDE HOMEOWNERS ASSOC INC
9601 W STATE ST STE 203
BOISE ID 83714-4021

RE: License No. 63-12477

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Also enclosed is a copy of the approved application for amendment.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,

Angela Grimm
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2019, I served a true and correct copy of Water Right License No. 63-12477 by U.S. Mail, postage prepaid, to the following:

STREAMSIDE HOMEOWNERS ASSOC INC (Current Owner)
9601 W STATE ST STE 203
BOISE ID 83714-4021



Darla Block
Technical Records Specialist 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
Application for Amendment
(For Licensing Purposes)
Water Right No. 63-12477

RECEIVED

MAY 06 2019

DEPARTMENT OF
WATER RESOURCES

Priority: November 09, 1998

Maximum Diversion Volume: 11.0 AF

The owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 63-12477

STARWOOD OF EAGLE INC 7701 W MOON VALLEY RD EAGLE ID 83616

requests the permit be changed as follows:

Source: GROUND WATER

Beneficial Use

AESTHETIC STORAGE

Period of Use

1/01 to 12/31

Rate of DiversionAnnual Volume

11.0 AF

Location of Point(s) of DiversionGROUND WATER L3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 20, Twp 04N, Rge 01E, B.M. ADA CountyGROUND WATER L2 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 20, Twp 04N, Rge 01E, B.M. ADA CountyPlace of Use: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N	01E	20		X	X		X													
							L3													
04N	01E	20		X	X															
				L2	L2															

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed this 1 day of MAY, 2019.

(Signature)

State of Idaho
Department of Water Resources
Application for Amendment
(For Licensing Purposes)
Water Right No. 63-12477

FOR DEPARTMENT USE ONLY

Preliminary check by DN Fee = \$100 Received by JH # C106753 Date 5-6-19

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 63-12477 with the following:

Conditions of Approval

1. Point of diversions are located within Lot 2, Blk. 3, and Lot 11, Blk. 2, Streamside Subdivision.
2. Place of use is located within Lot 2, Blk. 3, and Lot 11 Blk. 2, Streamside Subdivision.
3. The two (2) ponds established by the storage of water under this right shall not exceed a total capacity of 11 acre-feet or a total surface area of 2.7 acres.
4. Rights 63-144D and 63-12477 authorize the storage of an annual total of 11 acre-feet, comprised of 11 acre-feet to be used for the initial filling or carryover storage of the ponds, and up to 11 acre-feet for irrigation from storage use.

This amendment is issued pursuant to the provisions of Idaho Code § 42-211.

Signed this 20th day of May, 2019.



ANGELA GRIMM

Water Rights Section Manager

Attachment for Application to Amend a Permit

63-12477

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.



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

0 0.05 0.1 0.2 Miles



RECEIVED

MAY 06 2019

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #6 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
63-12477	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: STARWOOD OR EAGLE INC
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): STREAMSIDE HOMEOWNERS ASSOCIATION INC.
New owner(s) as listed on the conveyance document Name connector ☐ and ☐ or ☐ and/or
- Mailing address 9601 W STATE ST SUITE 203 City BOISE State ID ZIP 83714-0000
- Telephone 208-939-6000 Email brenda@dev-services.com

4. If the water rights and/or adjudication claims were split, how did the division occur?
- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: JULY 14, 1998

6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed IRS Form W-9 for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed Lessor Designation form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).

7. This form must be signed and submitted with the following **REQUIRED** items:

- ☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- ☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- ☒ Filing fee (see instructions for further explanation):
- \$25 per undivided water right.
 - \$100 per split water right.
 - No fee is required for pending adjudication claims.

- ☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.

- ☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

8. Signature: STANLEY B. LELAND Title, if applicable: BOARD MEMBER Date: 5-1-19
- Signature: STANLEY B. LELAND Title, if applicable: STREAMSIDE HOA INC. Date: 5-1-19

For IDWR Office Use Only:

Received by AD Date 5-6-19 Receipt No. C106751 Receipt Amt. 25.00

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 AD Approved by AD Processed by AD Date 5/20/19

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 08/17/05 10:41 AM
DEPUTY Gail Garrett
RECORDED - REQUEST OF
Streamside Homeowners Assoc

AMOUNT 9.00 3



When recorded return to:
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Attn: L. Edward Miller

DEED

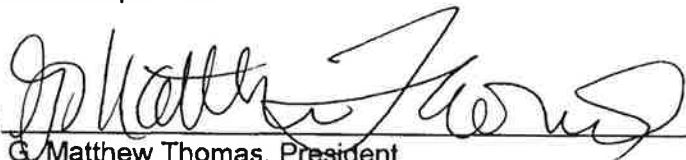
FOR VALUE RECEIVED, Starwood of Eagle, Inc., an Idaho corporation, the Grantor, does hereby bargain, sell and convey unto Streamside Homeowners Association, Inc., whose address is 7701 Moon Valley Road, Eagle, ID 83616, the Grantee, the real property located in Ada County, Idaho, fully described in Exhibit A hereto, together with all rights, titles, and interests appurtenant thereto (collectively, the "Property").

TO HAVE AND TO HOLD the Property unto the Grantee, its successors and assigns, forever.

This conveyance is subject to the lien for real property taxes for the year 1998 and each year thereafter, all liens claims and encumbrances of record, and the matters described in Exhibit B hereto (collectively, the "Permitted Exceptions").

IN WITNESS WHEREOF, the Grantor has caused the Grantor's name to be subscribed to the within instrument effective the 4 day of July, 1998.

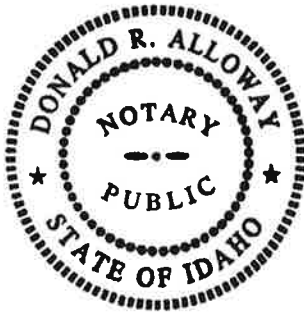
GRANTOR: STARWOOD OF EAGLE, INC.,
an Idaho corporation

By: 
G. Matthew Thomas, President

STATE OF Idaho)
) ss.
County of Ada)

On this 14th day of July, in the year 1998, before me, a Notary Public in and for the State of Idaho, personally appeared G. Matthew Thomas, known or identified to me to be the President of Starwood of Eagle, Inc., the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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




Notary Public for Idaho
Residing at: Boise
My commission expires: 10/6/01

EXHIBIT A

Legal Description of the Property

The described property of STREAMSIDE SUBDIVISION, according to the official plat thereof filed in Book 75 of Plats at Pages 7750 thru 7754, records of Ada County, Idaho:

Lot 12, Block 1
Lot 11, Block 2
Lot 2, Block 3
Lot 1, Block 4
Lot 1, Block 5
Lot 1, Block 6

RECEIVED

MAY 06 2019

DEPARTMENT OF
WATER RESOURCES

Daniel A Nelson
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098

Dear Mr. Nelson:

Thank you for being so helpful getting us pointed in the right direction with our permit. We are hopeful that we have complete all the correct documents needed to make this transaction successful.

If you have any questions or concerns, please reach me at my office number (208)327-0627.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Leis".

Stanley Leis

Enclosure(s): Application for Amendment with maps – *COMPLETED*
 Assignment of Permit Form – *DEED*
 Change of Ownership Form - *COMPLETED*

Nelson, Dan

From: Nelson, Dan
Sent: Wednesday, April 24, 2019 12:00 PM
To: 'Stanley Leis'
Subject: RE: Water right permit No. 6312477

Dear Mr. Leis,

Thank you for your correspondence and good questions. I am granting your request and extending the time to supply the needed information to May 9, 2019.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Stanley Leis [mailto:leismiley@aol.com]
Sent: Wednesday, April 24, 2019 11:35 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Subject: Re: Water right permit No. 6312477

Me Daniel Nelson,

A 14 day extension should be plenty of time to finalize the documents.

Thanks again for your help.

Stanley Leis

Sent from my iPhone

On Apr 24, 2019, at 7:26 AM, Nelson, Dan <Dan.Nelson@idwr.idaho.gov> wrote:

Dear Mr. Leis,

I can grant an extension for your organization to submit a change of ownership form, review the amendment, sign the amendment, and submit the \$100.00 amendment fee. However, I will need a specific date that your organization will respond to the April 9, 2019, letter. I cannot hold this file indefinitely, so a reasonable date to supply the information must be included in any request for additional time. Once I receive a reasonable date to respond to my April 9, 2019 letter, I will be able to grant an extension to submit the amendment.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: leismiley@aol.com [<mailto:leismiley@aol.com>]
Sent: Tuesday, April 23, 2019 8:26 PM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Subject: RE: Water right permit No. 6312477

Daniel Nelson
Analyst 3
IDWR

Dear Mr Nelson,

As the water issue representative for Streamside Home Owners Association Inc., I am responding to your letter dated April 9, 2019. There seems to be some confusion with regards to the water rights that needs clarification prior to filing of the Amendment form. Due to this we would like to ask for an extension of the 14 day filing deadline noted in your letter to Starwood.

Hopefully we will be speaking about this issue in the near future.

Best regards,

Stanley B Leis, DPM

Nelson, Dan

From: Nelson, Dan
Sent: Wednesday, April 24, 2019 7:27 AM
To: 'leismiley@aol.com'
Subject: RE: Water right permit No. 6312477

Dear Mr. Leis,

I can grant an extension for your organization to submit a change of ownership form, review the amendment, sign the amendment, and submit the \$100.00 amendment fee. However, I will need a specific date that your organization will respond to the April 9, 2019, letter. I cannot hold this file indefinitely, so a reasonable date to supply the information must be included in any request for additional time. Once I receive a reasonable date to respond to my April 9, 2019 letter, I will be able to grant an extension to submit the amendment.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: leismiley@aol.com [mailto:leismiley@aol.com]
Sent: Tuesday, April 23, 2019 8:26 PM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Subject: RE: Water right permit No. 6312477

Daniel Nelson
Analyst 3
IDWR

Dear Mr Nelson,

As the water issue representative for Streamside Home Owners Association Inc., I am responding to your letter dated April 9, 2019. There seems to be some confusion with regards to the water rights that needs clarification prior to filing of the Amendment form. Due to this we would like to ask for an extension of the 14 day filing deadline noted in your letter to Starwood.

Hopefully we will be speaking about this issue in the near future.

Best regards,

Stanley B Leis, DPM



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 9, 2019

STARWOOD OF EAGLE INC
7701 W MOON VALLEY RD
EAGLE ID 83616

RE: Water Right Permit No. 6312477

Dear Permit Holder:

The Idaho Department of Water Resources (Department) is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

On August 10, 1999, Department staff performed a field examination of this permit. This permit authorizes the year round filling of 2 ponds on property currently owned by Streamside Homeowners Association Inc. I have also sent a copy of this letter to Streamside Homeowners Association Inc.

The field report states the legal description for the two ponds were incorrectly described in the application for permit and the permit approval process. These ponds intercept shallow ground water, so the points of diversion for these ponds are in the deepest part of the ponds. The correct legal descriptions are listed on the attached Application for amendment.

If the legal description on the permit does not match the legal description developed, then an amendment of the permit is required prior to licensing the permit. Therefore, an amendment is required to change the point of diversion on the permit before we can move forward with licensing water right permit 63-12477.

You will also notice that the amendment is in the name of Starwood of Eagle Inc. If Starwood of Eagle Inc. is no longer associated with this permit, they will need to assign this permit to the current owner of the ponds. I have enclosed an Assignment of Permit form with this letter. If Starwood of Eagle Inc. no longer exists or cannot be contacted, the owners of the property, Streamside Homeowners Association Inc., can supply the enclosed Change of Ownership form and required documentation and sign and submit the amendment with the \$100.00 fee to correct the legal description. You will also need to provide proof that you attempted to contact the permit holder and were unsuccessful. If that is done, we will issue the license in the name of Streamside Homeowners Association Inc.

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when issued. Please review the amendment form carefully. If you concur with the information presented, please sign and return the form with the \$100.00 filing fee within 14 days. If we do not receive the amendment, we will void the permit, which could result in fines and penalties if the ponds remain full when irrigation water is not being diverted into the ponds. You may also need to file a new application to cover the ponds during the non-irrigation season.

If you have any questions or need additional time to complete this process, please don't hesitate to contact me.

Sincerely,



Daniel A. Nelson

Analyst 3

Water Right Section

Idaho Department of Water Resources

Telephone # (208) 287-4856

Email – dan.nelson@idwr.idaho.gov

Enclosure(s): Application for Amendment with maps
 Assignment of Permit Form
 Change of Ownership Form

cc Streamside Homeowners Association
 9601 W State St STE 203
 Boise ID 83714-0000

MEMORANDUM

TO: Water Right File 63-12477

FROM: Daniel Nelson – Analyst 3

DATE: March 6, 2019

SUBJECT: Licensing Review of Water Right 63-12477

This field exam for this right was performed by Western Region staff in 1999. The field examiner found two ponds with a total volume of 19.7 af. The field examiner recommended the ponds be limited to the permitted amount of 11 af. The field examiner determined that the average depth of the ponds was 5 feet and the surface area at approximately 3.94 acres.

History and Overlap Analysis:

This permit was filed with accompanying transfer 5344. Transfer 5344 was filed to split water right 63-144B into 63-144C and 63-144D. Water right 63-144D is for the same subdivision as this permit. It was determined in the transfer review that 53 acres of water right 63-144B overlapped the place of use for this subdivision. It was also determined in the transfer that only 31 acres of the 53 acres were actually irrigated. Therefore, the portion of 63-144B (now 63-144D) associated with the subdivision was limited to 31 acres that could be used in the transfer.

The transfer then removed 2.7 acres of irrigation to be used for irrigation storage and irrigation from storage from the same ponds associated with this permit, and the remaining 27.3 acres were to be used to provide irrigation use for the entire subdivision through a common irrigation system that diverted out of the ponds.

The transfer allowed a 1 to 1 swap from irrigated acres to the pond use without performing any evaporation analysis or allowing any additional water for evaporation. The transfer review memo states that the capacity of the two ponds is 11 af. The transfer review memo also states that the 2.7 acres at the standard annual volume of 4.5 af per acre would provide more water than the 11 af of pond capacity ($2.7 \text{ acres} \times 4.5 \text{ af/ac} = 12.15 \text{ af}$). There was no additional storage authorized for evaporation losses. When I calculated the evaporation losses of the two ponds using the Department's pond spreadsheet, the estimated evaporation of the ponds was 7.4 af. The pond spreadsheet estimate of pond evaporation is much more than the approximately 1.2 af that remained after the initial filling of the ponds using the Department standard volume of 4.5 af per acre for the 2.7 acres retired for the ponds, so they should have retired additional acres to cover the consumptive evaporation losses.

This permit and decreed water right 63-144D are both conditioned that when combined, the combined storage volume would be limited to 11 af. The notes in the permit file and the transfer memo both say the same thing, so this permit doesn't authorize additional storage volume above the 11 af authorized by water right 63-144D. The field exam and the remarks in the database state that all the consumptive use would be covered by the water right 63-144D, but there was no authorization to cover the consumptive evaporation losses of the ponds above the initial fill of 11 af.

The irrigation component on water right 63-144D only provides the standard volume of 4.5 af per acre for the 27.3 acres authorized by this right, so there was no additional storage authorized in the irrigation component. The irrigation from storage component allows all of the 11 af to be used for irrigation, but they did not provide any additional refills to refill the ponds if the irrigation from storage is used.

Points of Diversion:

The source of water for these ponds is shallow ground water that is intercepted by the digging of the ponds. Generally, we go with the center of the pond to determine the points of diversion. However, these ponds are located in the old Boise River channel and government lots that are crisscross the ponds. I do think we can keep the points of diversion in the proper location without requiring an amendment, but we might as well put them in the deepest part of the pond, and correct the point of diversion since we will need an amendment for the place of use.

Place of use:

The place of use for the west pond is correct. However, the east pond is located in Lot 2 (NWNE), NWNE, SWNE and Lot 2 SWNE. The mapping capabilities in the past were not sufficient to properly identify the pond locations, so we will need an amendment to correct the legal descriptions. We may not have needed to do this if the East Pond did not go into the SWNE, but an amendment will be needed regardless due the pond going into the two 40 acre tracts.

The actual place of use for the West Pond is in the Lot 3 (NENW) and the place of use for the East Pond is in Lot 2 (NWNE), Lot 2 (SWNE), NWNE, and SWNE. This should be how the lots are properly described.

Diversion Rate:

These ponds intercept shallow ground water, so there is no diversion to storage and no diversion rate required. It is similar to an on stream pond.

Diversion Volume:

The diversion volume recommended by the field examiner was 11 af, but the field examiner determined the actual volumes of the pond was 19.7 af. Using the field examiner's calculations, the average pond depth is 5 feet deep so the pond surface area would be 3.94 acres ($19.7 \text{ af} / 5 \text{ ft} = 3.94 \text{ acres}$). The permit and the transfer state that the surface area of the ponds is 2.7 acres, and when I created the shape files from the aerial photography, I also determined that the actual surface area of the ponds was 2.7 acres. The field examiner used rough measurements to determine the surface area, so I was not surprised the surface area was not accurate. Using the correct surface area of 2.7 acres and the 5 feet of average depth, the actual pond volume would be 13.5 af, which is still more than the 11 af allowed by this permit and water right 63-144D.

The incorrect surface area also brings into question the depth of the ponds. The field examiner stated that the average depth of both ponds were 5 feet. However, the permit and transfer suggest that the average depth is only 4.1 feet deep ($11 \text{ af} / 2.7 \text{ acres} = 4.074 \text{ feet}$). The field examiner doesn't state how he determined the depth of the ponds, so I don't know if they were determined from an estimation, guess from the Development Manager, or As-Built Design maps.

The transfer file does have a grading plan for the ponds. The grading maps are of poor quality and appear to have been copied several times. The pond volume for the transfer was determined from a letter from the engineering company working with the developer that gives a pond volume of 4.45 af for the West Pond and 6.45 af for the East pond, which matches the 4.074 feet depth estimated above. The ponds appear to be between 16 and 20 feet deep at their deepest point according to the grading plan in the transfer application, but they appear to have a very gradual slope on the pond sides. A review of field exams done on ponds in neighboring subdivisions suggest an average pond depth between 3.2 feet to 14.2 feet. The most common average pond depth is 7.2 feet in the neighboring subdivisions, so the 5.0 average depth suggested by the field examiner seems reasonable for this area. I don't have adequate information to dispute the field examiner's findings on the average depth of the ponds, so I am inclined to go with the field examiner's findings.

The permit states the following considering the consumptive use:

Ponds to be built on wetland – see pending transfer of 63-00144B (irrigation right). Same ponds filled by river water in irrigation season – that will cover consumptive use aspects. Consumptive use outside of irrigation season is de minimus.

Since the permit and the existing water right doesn't officially authorize any additional volume for the evaporation losses and it appears as though the volume of the ponds is greater than the 11 af authorized by this permit and the existing water right, then it may be prudent to cover the additional volume needed to make these ponds legal with a new water right transfer and/or application for permit. I am not sure why the evaporative losses were not specifically spelled out or included in the storage component of the overlapping water right. I am also not sure why the volume requested was not compared to the grading plan. Regardless, we cannot grant any additional storage other than the 11 af for the initial fill for these ponds.

Conditions:

All of the conditions will need to be removed and reworked.

There are several conditions that were placed on the permit that do not have a condition number, so these conditions should be changed to the standard conditions. Conditions X59 and X60 should be used to provide the locations of the points of diversion and places of use. Conditions 220 and 259 should replace the storage limitations and capacities for these ponds.

There is some concern that the actual fill and refill under the storage component doesn't meet current standards for licensing storage projects, but we are limited by transfer 5344 that was approved in 1999. The standards for storage were considerably different in 1999, and the requirements for defining consumptive use and how to record them on a water right license. Therefore, we need to provide the best conditions that we can while keeping in mind the differences in current requirements and past requirements. Transfer 5344 authorizes that 11 af be used for the initial filling of the two ponds and 11 af of irrigation from storage from the two ponds. This permit allows the ponds to remain full during the non-irrigation season, and doesn't add any additional storage. The conditions limit the total amount of water that can be stored to 11 af, so if the irrigation from storage component is used, it will reduce the amount of water that can be maintained in the pond during the non-irrigation season. I will discuss this situation in the amendment cover letter when it is sent to the permit holder and new property owners.