

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-33495

PRIORITY: March 30, 2011

Maximum Diversion Rate: 0.20 CFS

Maximum Diversion Volume: 67.2 AF

It is hereby certified that:

LEXINGTON HILLS HOMEOWNERS ASSN INC 9601 W STATE ST STE 203 BOISE ID 83714

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 30, 2011, and has submitted Proof of Beneficial Use on June 25, 2013. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31		67.2 AF
WILDLIFE STORAGE	01/01 to 12/31		67.2 AF
RECREATION STORAGE	01/01 to 12/31		67.2 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼SW¼ Sec. 3, Twp 04N, Rge 01E, B.M. ADA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	3									X	X	X	X		X			

PLACE OF USE: RECREATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	3									X	X	X	X		X			

PLACE OF USE: WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	3									X	X	X	X		X			

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-33495

CONDITIONS OF APPROVAL

1. This right authorizes total annual storage volume of 67.2 acre-feet, 25.2 acre-feet to be used for the initial filling or carryover storage of the ponds and channels and 42.0 acre-feet for the replacement of losses caused by seepage and evaporation.
2. The 20 ponds and connecting channels established by the storage of water under this right shall not exceed a total capacity of 25.2 acre-feet or a total surface area of 3.8 acres.
3. The right holder shall make full beneficial use of all surface water rights available. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient.
4. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
7. Water bearing zone to be appropriated is from 200 to 600 feet.
8. This right does not grant any right-of-way or easement across the land of another.
9. Point of diversion is located within Lot 28, Blk. 7, Lexington Hills Subdivision No. 5.
10. Place of use is located within Lexington Hills Subdivision.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. 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 12 day of April, 2018.



Angela M. Grimm
Water Rights Supervisor

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-33495

This map depicts the AESTHETIC STORAGE, RECREATION STORAGE, and WILDLIFE 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

0 0.075 0.15 0.3 Miles



State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-33495

RECEIVED

APR 05 2018

WATER RESOURCES
WESTERN REGION

PRIORITY: March 30, 2011

Maximum Diversion Rate: 0.20 CFS
Maximum Diversion Volume: 67.2 AF

Comes now

LEXINGTON HILLS HOMEOWNERS ASSN INC 9601 W STATE ST STE 203 BOISE ID 83714

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-33495, and requests that the permit be changed as follows:

SOURCE:
GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31		67.2 AF
WILDLIFE STORAGE	01/01 to 12/31		67.2 AF
RECREATION STORAGE	01/01 to 12/31		67.2 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼SW¼ Sec. 3, Twp 04N, Rge 01E, B.M. ADA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	3									X	X	X	X		X			

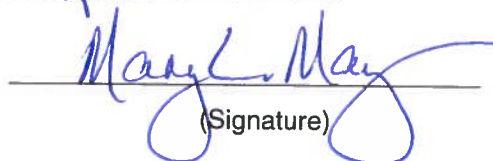
PLACE OF USE: RECREATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	3									X	X	X	X		X			

PLACE OF USE: WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	3									X	X	X	X		X			

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 8th day of April, 2018.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-33495

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100⁰⁰ Received by CS # W046202 Date 4/5/18

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 63-33495 with the following:

CONDITIONS OF APPROVAL

1. This right authorizes total annual storage volume of 67.2 acre-feet, 25.2 acre-feet to be used for the initial filling or carryover storage of the ponds and channels and 42.0 acre-feet for the replacement of losses caused by seepage and evaporation.
2. The 20 ponds and connecting channels established by the storage of water under this right shall not exceed a total capacity of 25.2 acre-feet or a total surface area of 3.8 acres.
3. The right holder shall make full beneficial use of all surface water rights available. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient.
4. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
7. Water bearing zone to be appropriated is from 200 to 600 feet.
8. This right does not grant any right-of-way or easement across the land of another.
9. Point of diversion is located within Lot 28, Blk. 7, Lexington Hills Subdivision No. 5.
10. Place of use is located within Lexington Hills Subdivision.

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

Signed this 11 day of April, 2018.


Nick Miller
for Manager, IDWR Western Region



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

C.L. "Butch" Otter
Governor

Gary Spackman
Director

April 12, 2018

LEXINGTON HILLS HOMEOWNERS ASSN INC
9601 W STATE ST STE 203
BOISE ID 83714

RE: License No. 63-33495

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) 334-2190.

Sincerely,



Nick Miller
Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2018, I served a true and correct copy of Water Right License No. 63-33495 by U.S. Mail, postage prepaid, to the following:

LEXINGTON HILLS HOMEOWNERS ASSN INC (Current Owner)
9601 W STATE ST STE 203
BOISE ID 83714

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



Rachel Neely
Administrative Assistant I

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.

Parker, Cody

From: Lori Graves <LGraves@spfwater.com>
Sent: Thursday, March 22, 2018 2:01 PM
To: Parker, Cody
Cc: Mary May
Subject: RE: Lexington Hills

Cody –

When we prepared the application in 2011, the HOA reported to us that their non-irrigation season water bills to the City for maintaining the ponds system averaged \$3000 per month, and that the water rate was \$1.19 per 100 cubic feet. This works out to 5.78 acre feet per month. For the application, we rounded up to 6 af/month, multiplied by 7 months to get 42 acre feet. Let us know if you need us to track down the water bills from the City.

From: Parker, Cody [mailto:Cody.Parker@idwr.idaho.gov]
Sent: Thursday, March 22, 2018 12:49 PM
To: Lori Graves <LGraves@spfwater.com>
Subject: Lexington Hills

Mrs. Graves,

Attached is my analysis for the Lexington Hills system. My spreadsheet shows 25.2 afa capacity and the permit shows 33 afa. Additionally, I calculated 11.3 afa evap and seepage, while the previous estimate was 42 afa. I am willing to budge on any of my numbers as long as I can document the justification for it. Thank you in advance for your help!

Respectfully,

Cody Parker
Water Resource Agent
IDWR Western Region