

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-33655

PRIORITY: August 08, 2012

Maximum Diversion Rate: 0.52 CFS

Maximum Diversion Volume: 98.0 AF

It is hereby certified that:

CITY OF BOISE DEPT OF PARKS & RECREATION 1104 ROYAL BLVD BOISE ID 83706-2898

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 04, 2012, and has submitted Proof of Beneficial Use on October 02, 2017. 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>
DIVERSION TO STORAGE	01/01 to 12/31	0.52 CFS	
MUNICIPAL STORAGE	01/01 to 12/31		98.0 AF
MUNICIPAL FROM STORAGE	03/15 to 11/15		90.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼SE¼ Sec. 23, Twp 03N, Rge 01E, B.M. ADA County

PLACE OF USE: MUNICIPAL STORAGE AND MUNICIPAL FROM 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	
03N	01E	23																X	

CONDITIONS OF APPROVAL

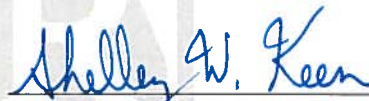
1. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may use water stored pursuant to this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not use water stored pursuant to this right for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Section 42-222, Idaho Code, or other Department approval.

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3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. Point of diversion is located within Molenaar Diamond Park.
5. Place of use is located within Molenaar Diamond Park.
6. This right authorizes multiple fills of the storage facility, up to a cumulative annual total of 98 af.
7. 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.

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 27th day of November, 2017.

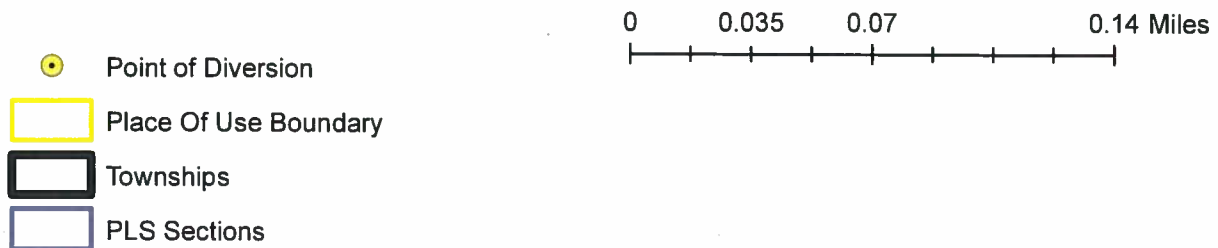


SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-33655

This map depicts the MUNICIPAL 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



State of Idaho
Department of Water Resources
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This map depicts the MUNICIPAL FROM 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

0 0.0375 0.075 0.15 Miles





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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 29, 2017

CITY OF BOISE
DEPT OF PARKS & RECREATION
1104 ROYAL BLVD
BOISE ID 83706-2898

RE: License No. 63-33655

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources 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 the conditions of approval and remarks listed on your license.

The license 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4951.

Sincerely,

Pamela Skaggs, Water Rights Supervisor
Water Right Permits Section

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on **December 04, 2017** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**Approved License**) to the person(s) listed below:

RE: WATER RIGHT NO. 63-33655

**CITY OF BOISE DEPT OF PARKS & RECREATION
1104 ROYAL BLVD
BOISE ID 83706-2898**



**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

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

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

DATE: November 27, 2017

TO: Water Right File 63-33655

FROM: Shelley W. Keen *SWK*

RE: Licensed beneficial use

Permit 63-33655 proposed a total of 114 AF of municipal storage and 90 AF of municipal use from storage. The application explained that the water would be used for an aesthetic pond and for supplemental irrigation use at Molenaar Diamond Park. The right holder, the City of Boise, developed the permit consistent with the application, i.e. 16 acres of supplemental irrigation and an 8.0 AF pond.

The right is being licensed for a storage volume of 98.0 AF, calculated by adding the pond fill volume (8.0 AF), the annual seepage losses from the pond (15.2 AF), the annual evaporation losses from the pond (2.8 AF), and the maximum intended usage for supplemental irrigation from the pond (72 AF). If this right were for irrigation from storage, it would be limited to a total annual maximum use from storage of 72 AF. However, it was permitted for municipal use from storage, not for irrigation from storage. Idaho has traditionally recognized that for municipalities serving incorporated cities, "the extent of beneficial use established under a non-RAFN permit should be determined based on the installed capacity developed and operational during the development period of the permit." *Application Processing Memorandum No. 18*. Because the permitted water use from storage was for municipal purposes, which encompasses a variety of beneficial uses, and not just for irrigation on a set number of acres, the City of Boise's developed capacity should be viewed as the entire 98.0 AF. However, since the permit proposed a total use from storage of 90.0 AF, the permit will be limited to the permitted volume.

The permitted season of use from storage will be left at 3/1/ to 11/15 to remain consistent with the permits.

The size of the pond need not be limited because the permit did not require mitigation for evaporation losses and fill volume, which would necessitate limiting the pond to match the mitigation provided.

MEMORANDUM

TO: Water Right Permit File 65-33655

FROM: Daniel A. Nelson

DATE: November 3, 2017

SUBJECT: License Delivery System and Conditions

An issue was raised concerning this permit, that wasn't initially addressed in the original licensing review. The system is designed so the well filling the pond is discharged directly into the pipeline that draws water from the pond. This would allow the right holder to divert directly from the well to the irrigation system without the well water entering the pond first. If the irrigation system is not running, the well water would go directly to the pond to be used for municipal storage and municipal from storage for irrigation at a later time. Whether or not the well discharges directly into the irrigation system would depend on the timing of the well and irrigation system operation. If they do operate the well and irrigation system at the same time, the right holder would need to file a new permit for municipal use (supplemental irrigation) that would allow the well to divert directly into the irrigation system without first going through the pond. I have sent an email to the certified field examiner to address this situation.

In my original licensing review memorandum for permit 63-33655, I recommended that condition 10 (164) of the permit be changed to conditions 220 and 259. A memo written to water right files 63-33579 and 63-33676 states that these conditions are no longer required for a municipal storage water right. Therefore, they were removed at licensing.

Conditions 065 and 104 issued on the permit were changed to condition 943 as is standard. Condition 943 was altered to reflect the storage components in the water right instead of direct irrigation use from a well.

Nelson, Dan

From: Nelson, Dan
Sent: Friday, November 03, 2017 8:47 AM
To: 'Terry Scanlan'; Lori Graves [LGraves@spfwater.com]
Subject: Permit 63-33655

Hello Lori and Terry,

I just wanted to let you know that Shelley and I are working to get permit 63-33655 licensed. We want to make you aware of an issue that arose during the final review before licensing. The well for this system discharges directly into the intake line from the pond to the irrigation system. The issue is that if the well pump is diverting water into the discharge pipe at the same time the irrigation system is running, the well water would be going directly to the irrigation system and would not be going into the pond. This permit for municipal storage and municipal from storage would not cover direct diversions from the well to the irrigation system. Due to the way the system is set up, we feel this permit must be licensed as it stands, and a new municipal water use cannot be added to the permit. You would need to file a new application for permit if you wish to include a municipal use into this system. If this system is regulated, there could be questions on whether or not the water is being used as described in the existing water rights. There are several ways to address this issue.

- 1.) They could not run the well when the irrigation system is in operation.
- 2.) They could file a new application for permit for municipal use to cover the direct influence from the well to the irrigation system.
- 3.) They could change the discharge point from the well to the pond, so that it cannot directly divert into the irrigation system without going through the pond first.

The choices range from simple to a bit more complex, but it is up to you and your client how you folks want to deal with this. Regardless of what you do, it will not affect the current permit in any way. As I said earlier, we can't amend the permit to fix this situation due to the way the system was designed.

If you have any questions, please don't hesitate to contact me.

Respectfully,

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

MEMORANDUM

TO: Water Right Files 63-33655

FROM: Daniel Nelson – Analyst 3

DATE: October 25, 2017

SUBJECT: Licensing Review of Water Right 63-33655

This field exam was performed by Certified Field Examiner Terry Scanlan of SPF Water Engineering. Mr. Scanlan submitted several similar field exams for the same client, but this field exam is for Molenaar Park. Mr. Scanlan reported that a total of 0.52 cfs was developed for the diversion to storage, 97.6 af for municipal storage, and 72 af for municipal from storage. The municipal from storage was to provide supplemental irrigation for 16 acres of irrigated area within the park. Boise Kuna Irrigation District water is also diverted into the pond to provide the primary source of irrigation water for the park. There are a couple of issues that need to be addressed. Each will be addressed below:

Points of Diversion:

Mr. Scanlan located the point of diversion on an aerial photo. The point of diversion appears to match the photos and the Google Earth aerial photography. The permit point of diversion was placed near the well driller's point of diversion, but the permit and well locations would place the well in the middle of a parking lot. I did use the coordinates on the well driller's report, and it matches very close to the location on Mr. Scanlan's report. Therefore, I am going to use the point described by Mr. Scanlan. I will correlate the well, and other points of diversion designations for this water right together at the end of the process.

Place of Use:

Mr. Scanlan created located the place of use, but it wasn't clear from the aerial photo how he created his shape file. The Department's imagery doesn't show the park, so I was required to create a shape file in Google Earth, and bring that shape file into Arcmap. It is difficult to create a good polygon in Google Earth, but I feel Mr. Scanlan and I were reasonably close. I found 15.6 acres and Mr. Scanlan found 16 acres, which appears to be a matter of rounding. Acres won't be included on the license, but it is good to have this information for future reports.

Diversion Rate:

Mr. Scanlan measured the system at 0.52 to 0.55 cfs recommending 0.52 cfs for diversion to storage. Mr. Scanlan's measurements appear to be reasonable, and I have no reason to dispute the measurements. The permit allowed up to 1.00 cfs for diversion to storage, so Mr. Scanlan's recommendation appears reasonable. The diversion to storage is not limited by the acres irrigated, so there should be no issue with recommending the pump capacity of 0.52 cfs.

Diversion Volume:

Mr. Scanlan recommended a municipal storage volume of 97.5 af and a diversion from storage volume of 72 af for a total of 97.5 af. Mr. Scanlan's pond capacity of 8 af appears reasonable and shouldn't be an issue. I was able to confirm that the pond surface area is approximately 1 acre. The maximum depth of the pond is 16 feet, so using the department standard of 0.4 X total depth, we would assume the average depth to be 6.4 feet. However, Mr. Scanlan states that the average depth of the pond is 8 feet. The slope on the sides of the pond are fairly steep, so I recalculated the volume based on the formula for a truncated cone shape and came up with 8.7 af. Therefore, I am inclined to accept Mr. Scanlan's average depth of 8 feet.

Mr. Scanlan stated the seepage loss at the site was 15.2 af per year based on a standard of ½ inch per acre per day designed seepage. I usually am a little concerned when using state standards for calculating seepage losses, but in this case, it does seem reasonable. There are 3 different soil types in this area. When you use these different soil types in the Pond Spreadsheet, you get the following range of seep losses:

Clay (1.1 af/year)
Sandy Clay (2.6 af/year)
Silty Sand (73 af/yr).

Mr. Scanlan's calculations appear to be somewhat in the middle of the range of different soil types, so I feel it is reasonable to proceed with licensing this permit with the 15.2 af calculated by Mr. Scanlan.

Mr. Scanlan calculated an evaporation losses from the pond at 2.3 af, and I calculated an evaporation loss of 2.8 af. We both used the same ET Idaho station. It appears as though Mr. Scanlan didn't include the entire year's work of evaporation. Therefore, I am going to use my calculations and give the 2.8 af for evaporation losses.

Mr. Scanlan recommended a municipal from storage of 72 af. This equates to the standard headgate requirement for this area of 4.5 af X 16 acres. Even though the municipal from storage is used to supplement irrigation water supplied by from Boise Kuna Irrigation District, this storage volume does seem reasonable.

Mr. Scanlan of 97.5 af for municipal storage use and 72 af for municipal from storage for a total storage volume of 97.5 af, but if you add in the additional 0.5 af for evaporation the total volume should be 98 af. Therefore, I am recommending 98 af for municipal storage and 72 af for municipal from storage for a total of 98 af.

Overlap:

Water rights belonging to Boise Kuna Irrigation District, Boise Project Board of Control, City of Boise and Suez United Water Idaho appear to be the only rights that is overlapping the place of use. I am assuming the Suez United Water rights will be used for the restrooms, but they will not be used for irrigation. There are also a number of City of Boise municipal rights that were decreed in the Snake River Basin Adjudication with a common service area. This service area overlaps the place of use. However, there is no interconnected system between these rights, so they are limited to specific locations where the points of diversion for each right are located. The City of Boise municipal rights should not be an issue for this permit.

The Boise Kuna Irrigation District and Boise Project Board of Control are the primary water rights that will be used to irrigate the park. This permit is supplemental to these rights, so there are conditions that will be added to the right to ensure that the canal company rights are used first.

The City of Boise Parks and Recreation owns domestic decreed water right 63-22680 formerly owned by George Molinaar. The City of Boise Parks and Recreation took over this domestic right when they purchased the right from Mr. Molinaar. However, the domestic well was properly de-commissioned on August 2, 2013. This right is still active, but house appears to have been removed prior to 2013. This permit covers the full municipal use for the park except for the restrooms, so even if this permit was used for the park, it would need to be limited to the use for the restrooms only.

Conditions:

Conditions 1 (26A) and 4 (046) should be removed as is standard. Conditions 2 (01M) should be carried forward to licensing.

Condition 3 (R65) is generally not used for Parks, since they try to irrigate during nonuse hours. However, the file and field report doesn't supply any information to suggest that there is a need for a higher diversion rate. Therefore, Condition 3 (R65) should be carried forward to licensing.

Condition 5 (121) should be changed to 103 at licensing as is standard. Conditions 6 (065) and 7 (104) should be changed to 943 as is standard.

Condition 8 (X60) should be carried forward to licensing and condition X59 should be added to show the point of diversion is within the same parcel. There isn't a lot and block designation for the park, so the descriptor should just say Molinaar Park.

Condition 9 (004) should be removed at licensing, since the well and water system are all within the same parcel. Condition 10 (164) should be changed to condition 220 and 259. Condition 220 will be altered to describe the surface area of the pond as 1 acre and total volume of 8 af). Condition 259 will be altered to describe the total authorized storage of 98 af, 8 af pond capacity, 18 af for seepage and evaporation, and 72 af for additional refills for municipal storage.

The permit had a water bearing zone limitation of 100 to 150 feet. The well driller's report shows that screens were installed between 147 to 167 feet. The well driller's report shows a clay layer from 126 to 147 feet with some sand and gravel. The well driller's report also shows that there is a coarse sand layer from 147 to 155 feet, and a fine to medium sand layer with sticky streaks from 155 to 174 feet. It would not make sense to install screens from 147 feet to 150 feet in this well, because the water would be drawn from 147 to 174 sandy water bearing zone. The beginning of the actual water bearing zone is within the zone that was originally designated on the permit, so I believe they simply misjudge the depth of the water bearing zone at the time of permitting and prior to drilling the well. This permit is just west of the Basin 63 Restricted Area boundary, so the water bearing zone condition doesn't need to be carried forward to licensing. I believe they met the intent of the water bearing zone during the development period and should not be denied a license based on this issue.

No combined limitation with decreed right 63-22680 is needed, since it is a domestic water right and not used in the park. If it is claimed that it is used in the park, it would be limited to the restroom use only.

Permit 63-33655 – License Review Maps

I was not able to find imagery that showed the completed park in the Department's imagery. I was able to find the park under construction in Google Earth. The two photos below show the pond (approximately 1.0 acres in surface area) and the irrigation use (approximately 16 acres). These match the pond surface area and irrigated acres found by the field examiner.

