

RECEIVED

APR 13 2017

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**STATEMENT OF COMPLETION**
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ 150. -
Receipt No. ED42917
Received By JLB
Date Received 4/13/2017

The Idaho Department of Water Resources considers this form a statement by the permit holder(s) that development of a water right has been **completed** and that water has been applied to beneficial use to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner.** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, contact any Department office or visit the Department's website at idwr.idaho.gov for an *Assignment of Permit* form. If you wish to relinquish your permit because you have not established the authorized use of the water and are not applying for an extension, please notify the Department in writing.

RECEIVED

1. Permit No. 22-13631 Telephone No. 208-705-08592. Name of Permit Holder(s) Lucra Investments Inc3. Mailing Address 61 Elm St City HatfieldState MA Zip 01038 Email _____4. Source of Water Ground Water If **GROUND WATER** (well), Date Drilled mo. 9 / yr. 2007Well Driller Denning Drilling Drilling Permit Number 0048943

5. Extent of use(s) completed as authorized by the water right permit: 2nd well drilled 10 / 2012, Permit # 0062779

Domestic (No. of households) 120 Stockwater (No. and type of stock) _____

Irrigation (No. of acres) _____ Other _____

6. Total rate of diversion or storage volume for which proof is submitted 2.75 cfs OR _____ acre-feet.7. Compliance with a measuring device requirement, lockable controlling device requirement, and/or other conditions of permit:
Refer to the approval conditions on your permit and respond accordingly.**The Department will not issue a license if permit conditions are not met.**Measuring Device Is a measuring device required? Yes ☐ No ☒If yes, has the measuring device been installed? Yes ☐ No ☐Lockable Controlling Device Is a lockable device required to control the diversion? Yes ☐ No ☒If yes, has the lockable device been installed? Yes ☐ No ☐Fish Screen Is a fish screen required? Yes ☐ No ☒If yes, has the fish screen been installed? Yes ☐ No ☐**Other Conditions of Permit**

Do the approval conditions on your permit require you to submit additional information in connection with your proof of beneficial use? If yes, list the conditions below and attach documents with the required information.

No _____ Completed? Yes ☐ No ☐8. Fee Enclosed \$ 150 or not applicable ☐. See fee schedule on page 2 of the instructions.

Proof statements filed without an appropriate fee, will be considered incomplete.

9. Person to contact to accompany the Department representative during field examination of the water system.

Name Grant Durtschi Telephone Number 208-705-7200Mailing Address 1392 N 695 E City ShelleyState ID Zip 83274 Email _____

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to a beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Signature of Permit Holder *Jeffrey R. Boney* Date 4-13-17
(include your title, if on behalf of company or organization)

Mail to: Idaho Department of Water Resources, PO Box 83720, Boise, ID 83720-0098

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NO. 22-13631	)	PRELIMINARY ORDER
IN THE NAME OF	)	REINSTATING A PERMIT
LUCRA INVESTMENTS INC	)	
_____	)	

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On April 16, 2007, the Department issued the above-captioned permit in the name of Lucra Investments Inc., with the condition that proof of construction of works and application of water to beneficial use ("proof of beneficial use") be submitted to the Department on or before April 1, 2009. The permit bore the priority date of November 15, 2006.
2. On January 31, 2009, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit proof of beneficial use or a Request for Extension of Time ("extension request").
3. On February 20, 2009, the permit holder filed an extension request with the Department. This extension was approved and granted based on due diligence or good cause. A proof of beneficial use deadline of April 1, 2012 was set.
4. On January 31, 2012, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit proof of beneficial use or a Request for Extension of Time ("extension request").
5. On April 1, 2012, the permit lapsed since the Department had not received an acceptable proof of beneficial use statement or extension request.
6. On April 10, 2012, the Department mailed a lapse notice to the permit holder.
7. On May 10, 2012, the permit holder filed an extension request with the Department. This extension was approved and granted based on due diligence or good cause. The permit was reinstated with the priority advanced to December 23, 2006. A proof of beneficial use deadline of April 1, 2017 was set.
8. On April 24, 2013, the Department issued an amended permit which was inadvertently issued with a priority date of December 24, 2006 instead of the priority date listed above in item #7. The Department doesn't find any evidence that the 1 day change in priority was deliberate, and believes this was an error or typo, therefore the priority date listed on the amended permit (preliminary order) was advanced 1 day to December 24, 2006.

9. On April 13, 2017, the permit holder filed a proof of beneficial use statement.

CONCLUSIONS OF LAW

Idaho Code § 42-218a states, in pertinent part:

A permit upon which the proof of beneficial use has not been submitted, or a request for extension of time has not been received on or before the date set for such proof, shall lapse and be of no further force nor effect. Notice of said lapsing shall be sent by the department to the applicant at the address of record by regular mail . . .

Idaho Code § 42-218a (1) provides as follows:

Within sixty (60) days after such notice of lapsing the Department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof.

The permit holder has provided a reasonable showing why this permit should be reinstated, by submitting an acceptable proof of beneficial use statement. The permit shall be reinstated based upon the April 13, 2017 filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 22-13631 is **REINSTATED** and the permit's priority date is advanced to January 3, 2007.

DATED this 21st day of April, 2017.



Jeff Peppersack, Chief
Water Allocation Bureau



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 21, 2017

LUCRA INVESTMENTS INC
C/O JEFF BORER
3412 GRANADA AVE #201
DALLAS TX 75205

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 22-13631

Dear Permit Holder(s):

The Department acknowledges receipt of the Proof of Beneficial Use form ("proof") and license examination fee for the above-referenced water right permit. Enclosed is an order that reinstates this permit since proof and the license examination fee were submitted after the proof deadline. Please note that the priority date for this permit has been advanced to **January 03, 2007**, as provided in section 42-218a(2), Idaho Code.

The next step in the process of developing a water right is for the Department to conduct a field examination to determine and confirm the use being made of the water according to the conditions of the permit.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right 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 field examination, please contact the Eastern Region Office of the Department located in Idaho Falls at (208) 525-7161.

Sincerely,

Darla Block
Technical Records Specialist

Enclosure(s)

c: West Ridge Ranch Homeowners Assoc Inc

CERTIFICATE OF SERVICE

I hereby certify that on **April 24, 2017** I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER REINSTATING A PERMIT**) to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit No. **22-13631**

**LUCRA INVESTMENTS INC
C/O JEFF BORER
3412 GRANADA AVE #201
DALLAS TX 75205**

**WEST RIDGE RANCH HOMEOWNERS ASSOC INC
C/O GRANT DURTSCHI
1392 N 695 E
SHELLEY ID 83274**



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.

Block, Darla

From: ot@olliethompson.com
Sent: Thursday, April 20, 2017 8:20 AM
To: Block, Darla
Cc: Jeffrey Borer
Subject: Jeffrey Borer - Lucra Investments inc.
Attachments: Jeffrey Borer Water Rights 04202017.pdf

Darla,

Please find attached the Current Address for processing Proof of Beneficial Use on Permit Nos. 22-13631 and 22-13771.

Please do not hesitate to let me know if there is anything else you need.

Cheers,
Ollie



Ollie Thompson Borer

305.916.1109 cell
214.230.3724 work
214.594.9100 fax
ot@olliethompson.com

Our finger prints never fade from the lives we touch. ~

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)

Water Right Number(s): NOS: 22-131631 and 22-13771Name(s): Jeffrey Borer - Lucra Investments, IncOld Mailing Address: 750 N. 150 E.
Tedonia, ID. 83452New Mailing Address: 3412 Granada Ave #201
Dallas, TX 75205Telephone Number: 413-454-9765Email: JB BCS@gmail.comSignature(s) of Owner(s) Jeffrey Richard Borer
President
(Include your title if on behalf of company or organization.)Date: 4/20/17

Send a signed original to your closest regional office:

IDWR Northern Region
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815-7763
(208) 762-2800

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190

IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161

IDWR Southern Region
650 Addison Ave W, Suite 500
Twin Falls, ID 83301-5858
(208) 736-3033

Block, Darla

From: Block, Darla
Sent: Wednesday, April 19, 2017 5:32 PM
To: 'jrbbcs@gmail.com'
Subject: Current Address for processing Proof of Beneficial Use on Permit Nos. 22-13631 and 22-13771
Attachments: Change of Address Form.pdf

Jeff Borer ph. 413-454-9765

Dear Mr. Borer,

The Fax # for the Department is 208-287-6700 just in case you need it. My email address is

Darla.Block@idwr.idaho.gov

All correspondence the Department has attempted to mail you at the address of record on file with the Department has bounced back to us by the US Postal service as undeliverable. Please provide the Department with your current address so the Department can send you a proof acknowledgment letter. Attached to this email is a Change in Address form for your use. Please return the form to me either by email or fax.

Sincerely,

*Darla Block
Technical Records Specialist
Water Allocation Bureau
Ph. #(208) 287-4945
Darla.Block@idwr.Idaho.gov*