

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-34183

PRIORITY: December 23, 2015

Maximum Diversion Volume: 20.0 AF

It is hereby certified that:

BEL AIR EAGLE LLC 2500 N DALLAS PKWY
STE 424 PLANO TX 75093

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 23, 2015, and has submitted Proof of Beneficial Use on September 13, 2016. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

TRIBUTARY:
BOISE RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	20.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L1 (NE¼NE¼) Sec. 14, Twp 04N, Rge 01W, 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	01W	14	X L1																

CONDITIONS OF APPROVAL

1. The pond established by the storage of water under rights 63-32601 and 63-34183 shall not exceed a total capacity of 94 acre-feet or a total surface area of 4.7 acres.
2. Per Transfer 73833, Right 63-32789 authorizes the diversion of 0.07 cfs and 13.0 af of water to ground water recharge to offset evaporation losses from the pond authorized by this right.
3. The right holder shall maintain control of the portion of Right 63-32789 used for ground water recharge purposes in concert with this right.
4. Failure to mitigate while still diverting water under this license is cause for the director to revoke the water right license.
5. 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

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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.

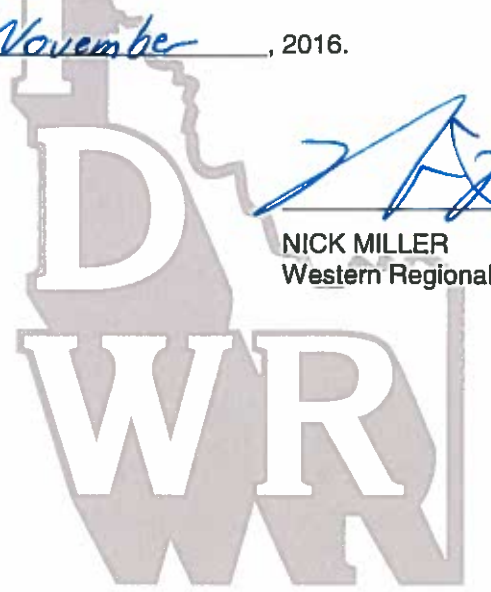
6. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
7. Water bearing zone to be appropriated is 0 to 30 feet.

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 15th day of November, 2016.



NICK MILLER
Western Regional Manager



State of Idaho
Department of Water Resources
Attachment to Water Right License
63-34183

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.

01W



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 15, 2016

BEL AIR EAGLE LLC
2500 N DALLAS PKWY
STE 424
PLANO TX 75093

RE: License No. 63-34183

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)334-2190.

Sincerely,

 Rachel Neely for:

Nick Miller
Western Regional Manager

Enclosure(s)
cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2016 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.

63-34183

**BEL AIR EAGLE LLC
2500 N DALLAS PKWY
STE 424
PLANO TX 75093**

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



**Rachel Neely
Administrative Assistant**

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

TO: Water Right File – 63-34183
FROM: Patrick Kelly; Water Resource Agent, Sr.
DATE: November 9, 2016
SUBJECT: Review of Water Right File for Licensing

The water right permit was approved on 7/29/2016 for aesthetic storage totaling 20 af. The application is a product of finding more beneficial use than permit 63-32601 allowed. 63-32601 has since been licensed for aesthetic storage and this permit provides additional pond volume. A field exam was completed by Terry Scanlan of SPF Water Engineering.

The field exam that was submitted suggests that no changes have occurred to the pond since the field exam for 63-32601 was completed on 12/22/2015. POD, POU, system descriptions and overlap review matches what was found for 63-32601.

There is no diversion rate or seepage loss for a pond that is excavated and naturally fills. Depth measurements were made to estimate an average pond depth of 20 feet. Surface area of the pond is 4.7 acres with a pond capacity totaling 94 af. Evaporation losses according to the pond spreadsheet analysis under department guidelines total 12.3 af.

This is within the B63 ground water restricted area. Consumptive losses are still mitigated through 63-32789 and delivery of 13.0 af from the well to the pond each year.

Recommended Amounts:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Aesthetic Storage	01/01 – 12/31	--	20 af
	<u>Totals</u>	--	20 af

Recommended Amendments:

☐ Change P.D. ☐ Add P.D. ☒ None

☐ Change P.U. ☐ Add P.U. ☐ Other