

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-32996

PRIORITY: March 07, 2008

Maximum Diversion Rate: 3.21 CFS

Maximum Diversion Volume: 14.4 AF

It is hereby certified that:

SPURWING GREENS MASTER ASSN INC 12601 W EXPLORER DR STE 200 BOISE ID 83713

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 07, 2008, and has submitted Proof of Beneficial Use on April 29, 2016. 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	3.21 CFS	
AESTHETIC STORAGE	01/01 to 12/31		14.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 22, 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	22												X		X	X		

CONDITIONS OF APPROVAL

- Right 63-32996 authorizes a total annual storage volume of 14.4 acre-feet, 9.4 acre-feet to be used for the initial filling of the 3 ponds and 5.0 acre-feet for the replacement of losses caused by evaporation.
- Rights 63-32977, 63-32979, 63-32996, and 63-33485 when combined shall not exceed a total diversion rate of 3.21 cfs and a total annual maximum diversion volume of 767.9 af at the field headgate.
- The following rights are diverted through point of diversion described above: 63-32977, 63-32979, 63-32996, and 63-33485.
- Water bearing zone to be appropriated is 196 to 287 feet.

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Water Right License
WATER RIGHT NO. 63-32996

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 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. 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.
7. This right does not grant any right-of-way or easement across the land of another.

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 8th day of August, 2016.



SHELLEY W. KEEN
Water Rights Section Manager

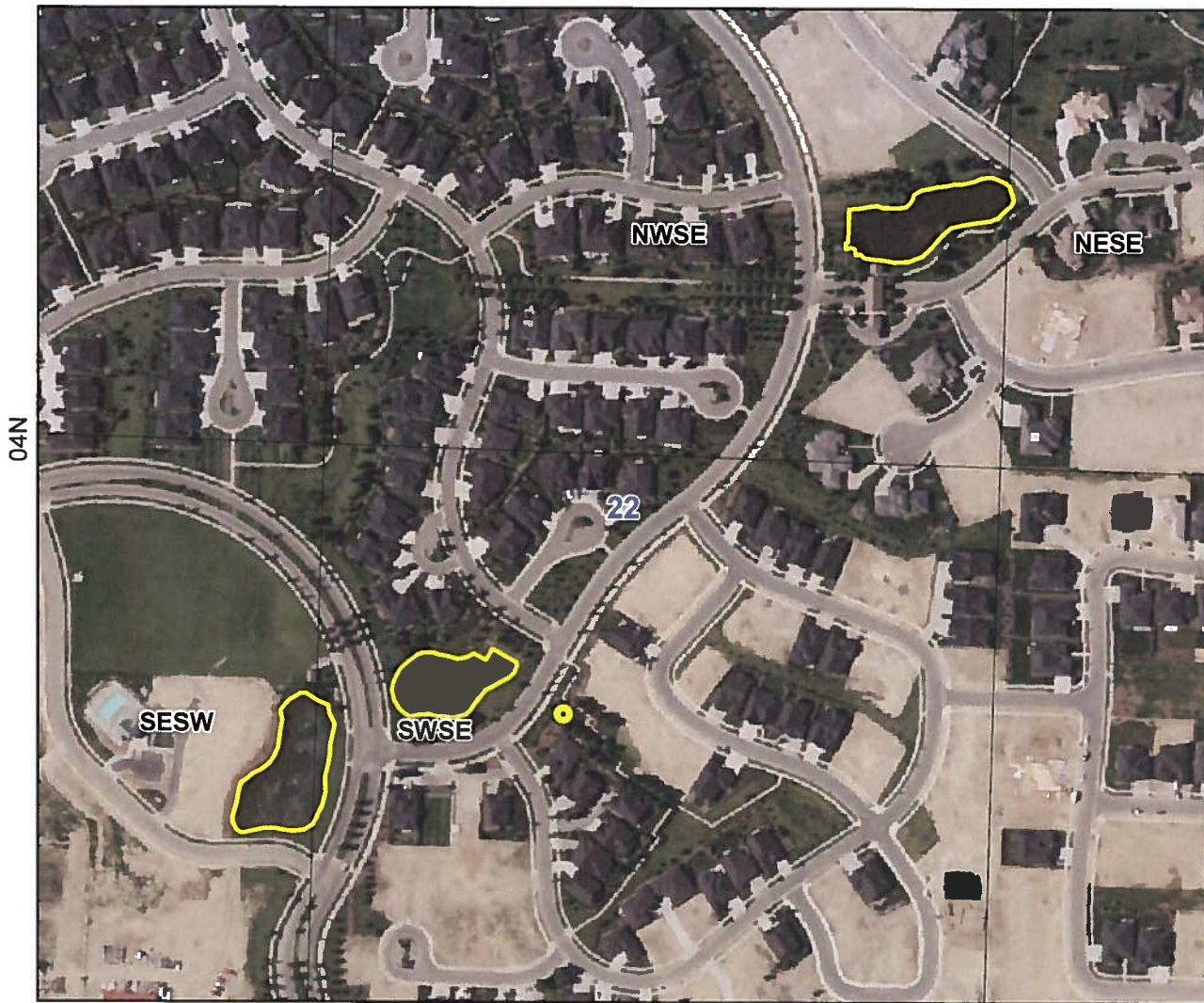
State of Idaho
Department of Water Resources

Attachment to Water Right License

63-32996

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 0.0425 0.085 0.17 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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 9, 2016

SPURWING GREENS MASTER ASSN INC
12601 W EXPLORER DR
STE 200
BOISE ID 83713

RE: License No. 63-32996

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,

A handwritten signature in cursive script that reads "Pamela Skaggs".

Pamela Skaggs

Water Rights Supervisor

Enclosure(s)

cc: SPF WATER ENGINEERING

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 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.

63-32996

**SPF WATER ENGINEERING
C/O MARCI PAPE
300 E MALLARD DR STE 350
BOISE ID 83706**

**SPURWING GREENS MASTER ASSN INC
12601 W EXPLORER DR
STE 200
BOISE ID 83713**

A handwritten signature in black ink, reading "Darla Block", is written over a horizontal line.

**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

TO: Water Right File 63-32996

FROM: Daniel Nelson – Staff Hydrologist

DATE: July 29, 2016

SUBJECT: Licensing Review of Water Right 63-32996

This field exam was performed by Certified Field Examiner Marci Pape of SPF Engineering. Ms. Pape reported that 3.21 cfs was used to fill 3 ponds with a total volume of 9.4 acre feet and with an additional 5 af of evaporation for a total of 14.4 af of water. There are a couple of issues that need to be addressed. Each will be addressed below:

Wells and overlapping water rights:

Ms. Pape stated in her field report that only one well was diverted to the three ponds. Ms. Pape also stated in her field report that water rights 63-32977, 63-32978, 63-32979, 63-32980, and 63-33485 were all diverted from the same point of diversion. In a response to conversations with Ms. Pape and Ms. Brown, an assignment of permit was issued with an addendum to the beneficial use field exam stating that water rights 63-32977, 63-32979, and 63-33485 are only diverted from the single well in described in the field exam report. The addendum also stated that a water right transfer was filed on 63-32977, 63-32979, and 63-33485. I have confirmed with our western region office that a water right transfer has been filed to change the above water rights to a single point of diversion. Furthermore, the well log submitted with the field report shows the well for the permit was drilled in 2007, and transfer 74686 and this permit were filed in 2008 to add this well to the system. It appears as though the well for this permit supplied enough water to cover all of the water rights associated with Spurwing's irrigation and storage needs, so they have abandoned the other two wells.

After receiving the addendum, I contacted Ms. Pace to request additional information regarding water rights 63-32978 and 63-32980, which were included in the field report, but not discussed in the addendum. Ms. Pape replied with an email stating that the other wells listed on water rights are not being used. She goes on to say that there are no agreements or contracts for Spurwing Greens to deliver water under water rights 63-32978 and 63-32980. She goes on to say that it appears there is at least one domestic well on the property served by 63-32978 and 63-32980 supplying the water for these water rights.

In reviewing the water rights, water right 63-32978 does show a well not described by any of the other water rights. With the information supplied by Ms. Pape, it is reasonable to assume that the older system was abandoned, and a new well was drilled just for Spurwing Greens for this permit and their three existing irrigation water rights 63-32977, 63-32979, and 63-33485. With the abandonment of the older system, I am assuming the owner of the other two overlapping water rights are diverted from the owner's domestic well as suggested by Ms. Pape. Any combined limitation of diversion rates, volumes, or acre from this well should not include water rights 63-32978 and 63-32980. There were no combined limitations including all 5 water rights prior to this permit, so this shouldn't be an issue.

Diversion Rate:

Ms. Pape provided a measurement and documentation of the measurement for the well showing a maximum capacity of 3.21 cfs. The permit was approved with a diversion to storage rate of 3.35 cfs. Ms. Pape recommended a diversion to storage rate of 3.21 cfs and I agree with her recommendation.

Volume:

Ms. Pape submitted a pond seepage sheet. This sheet shows a pond surface area of 1.9 af, an average pond depth of 6 feet, a total pond capacity of 9.4 af, evaporation of 5.0 af and a total storage volume requirement of 14.4 af.

Pond levels varied from year to year. I calculated 1.6 acres in 2011, 2.0 acre in 2013, and 1.8 acres in 2015. The last 2 years have averaged 1.9 af, so I agree with Ms. Pape's determination of 1.9 acre surface area of the ponds. An email sent to Roxanne Brown of SPF from Brighton Corporation for the three pond depths, show an average depth of the ponds between 5.2 feet and 6.6 feet deep. When averaged these three pond depths average out to just under 6 feet, so I think 6 feet as an average pond depth is reasonable.

When I ran my calculations for the evaporation rates, I calculated 6.0 af of pond evaporation. Ms. Pape calculated 5.0 af of evaporation. I sent my information to Ms. Pape to review, and she confirmed that she feels the evaporation amount should be limited to 5.0 af instead of the 6.0 af I calculated. Either amount is within the limits of the permit, so I will go with Ms. Pape's calculations. Therefore, I agree with Ms. Pape's recommended volume of 14.4 af.

Conditions:

I recommend carrying conditions 1 (004) and 3 (01M) to licensing. Condition 2 (121) will be changed to condition 103 as is standard. Condition 4 will be removed as it no longer applies. Condition 5 will be changed to condition 930. Condition 6 will be changed to condition 219 with a pond capacity of 9.4 af, evaporation of 5.0 af, for a total volume of 14.4 af. The pond is lined, so seepage loss is not an issue.

Condition 5 will be changed to condition 930. The well log shows the water is being drawn from an aquifer that is 196 feet to 287 feet, but it was determined at the time of permitting that this water is not tributary to the Boise River above Star Bridge. This permit falls within the Basin 63 Ground Water Restriction zone, but since it has been classified as not being tributary to the Boise River above Star Bridge, the water bearing zone condition should be carried forward to licensing.

Condition will need to be added to limit the diversion rate and volume diverted from this well. Water rights 63-32977 and 63-32979 have combined volume limitation, so we will need to include all of these rights to prevent excess diversion from the well. Condition F06 will also be added to the license to show water rights 63-32977, 63-32979, 63-33485, and this permit 63-32996 are all diverted from this well.

Nelson, Dan

From: Nelson, Dan
Sent: Wednesday, August 03, 2016 7:14 AM
To: 'Marci Pape'
Subject: RE: Permit 63-32996

Marci,

This sounds fine to me. I just wanted to give you the opportunity to have the higher volume. I will move forward on processing the license.

Thank you.

Dan Nelson

From: Marci Pape [mailto:Mpape@spfwater.com]
Sent: Monday, August 01, 2016 6:04 PM
To: Nelson, Dan
Cc: Roxanne Brown; Scott King
Subject: RE: Permit 63-32996

Dan –

I have spoken with a representative of Spurwing Greens and gotten confirmation that there is only one well serving the Spurwing Greens system, and that the other wells listed in other water rights are no longer being used. Additionally, there is no agreement between the Carnahans and Spurwing Greens for the delivery of water to the Carnahans from this system. It appears that the Carnahans may have at least one domestic well on their property, but there is no agreement in place to receive water from the Spurwing Greens well.

As for the pond spreadsheet question, the GIS data I have indicates that the Kuna and Caldwell weather stations are both approximately the same distance from the ponds, with the Caldwell station being slightly closer. In reviewing your calculations, I noticed that you used the ET estimates for “Open water – small stock ponds” for the Kuna weather station. We have generally used ET estimates for “Open water – shallow systems” in scenarios like this one, and I used that category in this case, as well. In talking with Scott King, he explained that it was his understanding that the “Open water – small stock ponds” category is more for small stock ponds with high turbidity due to the movement of stock through the pond, and that the “Open water – shallow systems” category is more appropriate for lower turbidity, reasonably shallow irrigation ponds such as this one that are not used for stock watering. If there is a policy that provides guidance on the appropriate use of the different categories, would you forward that information so that we at SPF can make sure we are correctly applying the ET estimates?

According to my calculations, using the “Open water – shallow systems” category and the Kuna weather station, the evaporation rate is 4.9 afa, rather than the value of 5.0 afa that I calculated using the Caldwell station. I would be satisfied with using either of those numbers for an evaporation loss estimate. Both of these numbers are lower than those that would result from using ET estimates for small stock ponds, but they still seem more appropriate here based on our understanding of the different categories. Let me know if you disagree.

Thanks,
Marci



June 27, 2016

Daniel Nelson
Idaho Department of Water Resources
322 E. Front St.
PO Box 83720
Boise, ID 83720-0098

RECEIVED

JUN 27 2016

DEPARTMENT OF
WATER RESOURCES

Subject: Spurwing Greens Master Association, Inc. - Permit No. 63-32996

Dear Dan,

Enclosed on behalf of Spurwing Greens Master Association, Inc. are two documents, the first of which is a completed Assignment of Permit changing the ownership of the above-referenced permit from Spurwing Greens, LLC to Spurwing Greens Master Association, Inc. The second document is an addendum to the Beneficial Use Field Exam (BUFE) that was submitted to IDWR on April 29, 2016. The BUFE addendum serves to clarify the ground water source of supply for both the permit and the other water rights sharing that source. We request the addendum be placed with the BUFE file to ensure that the two documents are not separated.

Spurwing Greens Master Association is working toward an update of the records for other water rights associated with the development. They are currently working with Spurwing Greens LLC to obtain a deed conveying the water rights to the Association, and will then submit a completed Change in Ownership form for all water rights changing the records to reflect ownership by Spurwing Greens Master Association, Inc. An Application for Transfer of Water Right – Point of Diversion will also be submitted for three of the four water rights, to reflect the fact that they share the same single ground water source as the permit, rather than multiple wells. We expect these documents to be complete and ready for submittal later this week, but wanted to submit the documents related to the BUFE as soon as possible to assist the licensing process.

Enclosed is a payment in the amount of \$25 for fee associated with the permit assignment. Please let Marci or me know if you have any questions regarding these documents.

Sincerely,

A handwritten signature in blue ink that reads "Roxanne Brown". The signature is fluid and cursive, with the first name being more prominent.

Roxanne Brown

cc: Ann Marie Baird, Brighton Corporation

File: 650.0100



SPF WATER
ENGINEERING

May 24, 2016

Spurwing Greens, LLC
3405 E. Overland Rd, Ste. 150
Meridian, ID 83642

Attn: Roger L. Anderson

*Subject: Permit No. 63-32996
Beneficial Use Field Report*

Dear Mr. Anderson,

I am currently completing the Beneficial Use Field Exam for Permit 63-32996. This permit is for the diversion of ground water for aesthetic storage within three ponds located north of Chinden Blvd., near Tree Farm Way. The permit is still in the name of Spurwing Greens, LLC, but the current owner of the land to which the permit is appurtenant is the homeowners' association, Spurwing Greens Master Association, Inc. Please confirm that it is the intention of Spurwing Greens, LLC to convey ownership of Permit 63-32996 to Spurwing Greens Master Association, Inc.

Please respond within 14 days from today in order for Spurwing Greens Master Association to meet a response deadline established by the Idaho Department of Water Resources.

Sincerely,

Marci S. Pape, P.E.
Project Engineer

Enclosure: Permit No. 63-32996

File: 650.0100



June 2, 2016

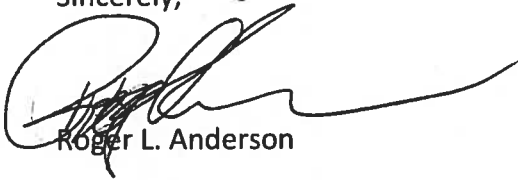
RE: Permit No. 63-32996
Beneficial Use Field Report

Dear Marcy,

As a Manager of Spurwing Greens, LLC I do hereby confirm that it is our intention to convey ownership of Permit 63-32996 to Spurwing Greens Master Association, Inc.

If you have any questions please feel free to contact me.

Sincerely,



Roger L. Anderson

Nelson, Dan

From: Nelson, Dan
Sent: Tuesday, June 28, 2016 7:27 AM
To: 'Roxanne Brown'
Subject: RE: Spurwing Greens

Roxanne,

I received the hard copy of your letter in my office today. I do have one question. In the letter you talk about 2 attachments. One the assignment of permit, which we received. The other was an addendum to the Beneficial Use Field Exam clarifying the ground water source of supply for both the permit and the other water rights sharing that source. I didn't see anything that looked like an addendum to the field exam. Am I missing something, or did I misunderstand the letter?

Dan Nelson

From: Roxanne Brown [<mailto:RBrown@spfwater.com>]
Sent: Monday, June 27, 2016 11:21 AM
To: Ann Marie Baird; Marci Pape
Cc: Nelson, Dan
Subject: Spurwing Greens

All – Attached is a copy of the letter submitted to IDWR today conveying the permit assignment and beneficial use field exam addendum to Dan Nelson. We will submit the Change in Ownership and transfer application for the other water rights as soon as Ann Marie has a chance to have the deed signed and recorded. The signed ownership change and transfer forms are on my desk waiting for a copy of the deed.

Thanks everyone.

Roxanne

Roxanne Brown | Sr. Water Right Specialist

SPF Water Engineering, LLC
300 E Mallard Drive, Suite 350 | Boise, ID 83706
p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2136
e. rbrown@spfwater.com | w. www.spfwater.com



Nelson, Dan

From: Nelson, Dan
Sent: Tuesday, May 24, 2016 8:16 AM
To: 'mpape@spfwater.com'
Subject: Spurwing Greens LLC Permit 63-32996

Hello Marci,

I finally have had time to do an initial review of the field report you submitted on behalf of Spurwing Greens Master Association, Inc. Unfortunately, permit 63-32996 is in the name of Spurwing Greens LLC, and is considered to be personal property of the corporation. Spurwing Greens Master Association, Inc. may own the property for the permit's place of use, but they do not own the water right permit and can take no action on the permit without authority. We are not able to process this field report or the proof of beneficial use statement without one of the following:

An assignment of permit form, assigning the permit from Spurwing Greens LLC to Spurwing Greens Master Association, Inc.

OR

A change of ownership with the necessary documentation showing that Spurwing Greens Master Association, Inc. is the new owner of the property. The change of ownership will also need documentation showing that Spurwing Greens Master Association, Inc. has made a reasonable effort to contact Spurwing Greens LLC to attain the assignment of permit, and were unable to contact them.

I can hold this field report and proof of beneficial use for 30 days before I have to return it with a notice that the permit has lapsed. If I receive the above information before the 30 day period, then we can maintain the date we received your field report and the proof of beneficial use in our records. I may be able to give you additional time if requested, but I will need a specific date that you will supply the information. Therefore, I will hold this file until June 27, 2016 to allow you to supply the above information.

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

Respectfully,

Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)