

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 63-34183

Priority: December 23, 2015

Maximum Diversion Volume: 20.0 AF

This is to certify, that BEL AIR EAGLE LLC  
2500 N DALLAS PKWY  
STE 424  
PLANO TX 75093

has applied for a permit to appropriate water from:

Source: GROUND WATER

Tributary: BOISE RIVER

and a permit is APPROVED for development of water as follows:

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

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L1 (NE1/4NE1/4) 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. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2021**.
2. Subject to all prior water rights.
3. 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.
4. The right holder shall maintain control of the portion of Right 63-32789 used for ground water recharge purposes in concert with this right.
5. Failure to mitigate, while still diverting water under this permit, is cause for the director to cancel a water right permit or revoke a subsequently approved water right license.
6. 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.
7. Water bearing zone to be appropriated is 0 to 30 feet.
8. 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.
9. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

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10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
11. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

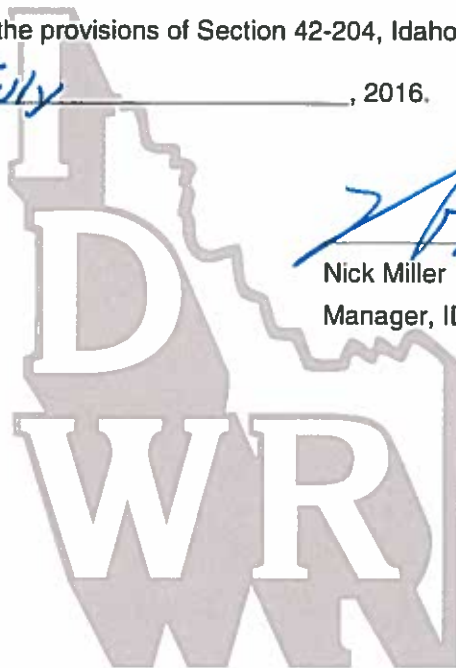
This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 29<sup>th</sup> day of July, 2016.



Nick Miller

Manager, IDWR Western Region



State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

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.



- 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**

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

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

**C. L. "BUTCH" OTTER**  
Governor

**GARY SPACKMAN**  
Director

August 1, 2016

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

RE: Permit No.63-34183

**Permit Approval Notice**

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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. 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 August 1, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) 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**



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**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: Sascha Marston  
FROM: Patrick Kelly  
DATE: 6/14/2016  
RE : **Refund Request**

SPF Water Engineering paid \$ 200 for an Application for permit on 12/23/2015. The application fee for 20 af associated with permit application 63-34183 is \$100. A partial refund should be issued.

Please issue a \$100 refund to the **payer** as follows:

### TO

SPF Water Engineering  
300 E Mallard Dr Suite 350  
Boise, ID 83706

TEL. 208-383-4140

### RECEIPT

W043764, copy attached

**LEGAL PROOF OF PUBLICATION**

| Account # | Ad Number  | Identification                          | PO                     | Amount   | Cols | Lines |
|-----------|------------|-----------------------------------------|------------------------|----------|------|-------|
| 263978    | 0002369217 | LEGAL NOTICE The following applications | Home Capital Resources | \$724.00 | 5    | 88    |

**Attention: RACHEL NEELY**IDAHO DEPT OF WATER RESOURCES / WEST  
2735 AIRPORT WAY  
BOISE, ID 837055082**RECEIVED**

APR 18 2016

WATER  
WESTERN REGION**RECEIVED**

APR 18 2016

WATER RESOURCES  
WESTERN REGION

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 InsertionsBeginning issue of: 04/07/2016Ending issue of: 04/14/2016

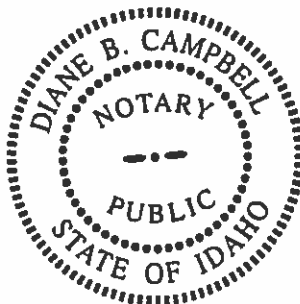
Janice Hildreth  
(Legal Clerk)

STATE OF IDAHO )

.SS

COUNTY OF ADA )

On this 14th day of April in the year of 2016 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



Diane B. Campbell  
Notary Public FOR Idaho  
Residing at: Boise, Idaho

My Commission expires: 7/23/2021

# LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

**63-34017**  
**HOME CAPITAL RESOURCES**  
 PO BOX 832  
 BOISE, ID 83701  
 Point of Diversion SWSE S11 T04N R01W ADA County Source GROUND WATER Tributary BOISE RIVER  
 Point of Diversion L2(NWNE) S14 T04N R01W ADA County Source GROUND WATER Tributary BOISE RIVER  
 Use: AESTHETIC STORAGE 01/01 to 12/31 8 AF  
 Total Diversion: 8 AF  
 Date Filed: 11/24/2014  
 Place of Use: AESTHETIC STORAGE  
 T04N R01W S11 SWSE  
 T04N R01W S14 L2(NWNE)  
 Water bearing zone to be appropriated is from 0 to 20 feet. Mitigation is proposed for consumptive use via Transfer No. 79691.

**63-34025**  
**CITY OF BOISE**  
**DEPT OF PARKS & RECREATION**  
 1104 ROYAL BLVD  
 BOISE, ID 83706-2898  
 Point of Diversion NWSW S13 T04N R01E ADA County Source GROUND WATER Tributary BOISE RIVER  
 Use: DIVERSION TO STORAGE 01/01 to 12/31 0.3 CFS  
 Use: MUNICIPAL FROM STORAGE 03/01 to 11/15 42 AF  
 Use: MUNICIPAL STORAGE 01/01 to 12/31 42 AF  
 Total Diversion: 0.3 CFS 42 AF  
 Date Filed: 12/23/2014  
 Places of Use: MUNICIPAL STORAGE, MUNICIPAL FROM STORAGE  
 T04N R01E S13 NWSW  
 Water bearing zone to be appropriated is from 200 to 500 feet.  
 Mitigation is proposed for consumptive use.  
 Municipal from storage use is for supplemental irrigation of 6.5 acres within Magnolia Park.  
 Water bearing zone to be appropriated is from 130 to 190 feet.

**63-34134**  
**AMERICA FIRST FEDERAL CREDIT UNION**  
 4646 S 1500 W STE 130  
 RIVERDALE, UT 84405  
 Point of Diversion SESE S15 T05N R01E ADA County Source GROUND WATER  
 Point of Diversion SWNW S22 T05N R01E ADA County Source GROUND WATER  
 Use: IRRIGATION 03/01 to 11/15 4.8 CFS  
 Total Diversion: 4.8 CFS  
 Date Filed: 8/21/2015  
 Place of Use: IRRIGATION  
 T05N R01E S15 SWSE SESE  
 T05N R01E S21 SENE NESW SWSW SESW NESE NWSE  
 T05N R01E S22 NENE NWNE NENW SWNW SENW NWSW  
 T05N R01E S28 NENEW NWNW  
 Total Acres: 237  
 Water bearing zone to be appropriated is from 50 to 300 feet.

**63-34180**  
**AMERICA FIRST FEDERAL CREDIT UNION**  
 4646 S 1500 W STE 130  
 RIVERDALE, UT 84405  
 Point of Diversion SESE S15 T05N R01E ADA County Source GROUND WATER  
 Use: DIVERSION TO STORAGE 01/01 to 12/31 0.67 CFS  
 Use: STOCKWATER STORAGE 01/01 to 12/31 13.7 AF  
 Total Diversion: 0.67 CFS  
 Date Filed: 12/18/2015  
 Place of Use: STOCKWATER STORAGE  
 T05N R01E S14 SWSW  
 T05N R01E S22 NWNE  
 Water bearing zone to be appropriated is from 175 to 246 feet.

**63-34182**  
**AMERICA FIRST FEDERAL CREDIT UNION**  
 4646 S 1500 W STE 130  
 RIVERDALE, UT 84405  
 (3) Points of Diversion SWSW S14 T05N R01E ADA County Source SPRING Tributary SINKS  
 Point of Diversion SESE S15 T05N R01E ADA County Source SPRING Tributary SINKS  
 Use: STOCKWATER 01/01 to 12/31 0.09 CFS  
 Total Diversion: 0.09 CFS  
 Date Filed: 12/18/2015  
 Place of Use: STOCKWATER  
 T05N R01E S14 SWSW  
 T05N R01E S15 SESE

**63-34183**  
**BEL AIR EAGLE LLC**  
 2500 N DALLAS PKWY  
 STE 424  
 PLANO, TX 75093  
 Point of Diversion L1(NENE) S14 T04N R01W ADA County Source GROUND WATER Tributary BOISE RIVER  
 Use: AESTHETIC STORAGE 01/01 to 12/31 20 AF  
 Total Diversion: 20 AF  
 Date Filed: 12/23/2015  
 Place of Use: AESTHETIC STORAGE  
 T04N R01W S14 L1(NENE)  
 Water bearing zone to be appropriated is from 0 to 30 feet. Mitigation is proposed for consumptive losses.

**63-34208**  
**CITY OF BOISE**  
**PUBLIC WORKS DEPT**  
 150 N CAPITOL BLVD  
 PO BOX 500  
 BOISE, ID 83701-0500  
 Point of Diversion SWSW S22 T04N R01E ADA County Source GROUND WATER Tributary BOISE RIVER  
 Use: INDUSTRIAL 01/01 to 12/31 0.67 CFS  
 Total Diversion: 0.67 CFS  
 Date Filed: 3/16/2016  
 Place of Use: INDUSTRIAL  
 T04N R01E S22 NESW NWSW  
 Water bearing zone to be appropriated is from 50 to 150 feet.  
 Industrial use proposed to be non-consumptive.

## NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

**TRANSFER NO. 79691**  
**MIDDLETON MILL DITCH CO**, PO BOX 848, MIDDLETON, ID 83644; has filed Application No. 79691 for changes to the following water rights within ADA County(s): Right No(s). 63-125G; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx](http://www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx). Transfer 79691 proposes to change the nature of use of a portion of water right 63-125G to provide mitigation for evaporative losses associated with excavated ponds within the Middleton Mill Ditch Company service area. The transfer is being processed concurrently with Application for Permit 63-34017. The aesthetic storage pond site is located 0.25 miles west of intersection Linder Rd. and W State St., immediately north of Eagle Island and the Boise River.

**TRANSFER NO. 80028**  
**M & C STANLEY LLC**, 2224 N RAM AVE, EAGLE, ID 83616; has filed Application No. 80028 for changes to the following water rights within ADA County(s): Right No(s). 63-33243, 63-33246, 63-9003; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx](http://www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx). The purpose of the transfer is to change the Place Of Use and Points Of Diversion for 63-33243 and 63-33246 from Echanove Ranch Subdivision irrigation system to the applicant's property. Transfer will also split right 63-9003 to separate irrigation and domestic rights. The irrigation use will move to the applicant's property and will add two new groundwater diversion points. The domestic use will stay at the original location with the two original PODs. The site of the proposed 5.2 acre POU and PODs is immediately north of Dry Creek on the west side of Highway 55.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at 208-334-2190; or for a full description of the right(s) or proposed transfer(s) please see [www.idwr.idaho.gov/WaterManagement/WaterRights](http://www.idwr.idaho.gov/WaterManagement/WaterRights). Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 4/25/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Pub. Apr. 7, 14, 2016

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