

Amended Water Right License Amended

PRIORITY: July 14, 2010

Maximum Diversion Rate: 0.84 CFS
Maximum Diversion Volume: 210.2 AF

It is hereby certified that:

RIVERS END NEIGHBORHOOD ASSN INC 9601 W STATE #203 BOISE ID 83714

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 14, 2010, and has submitted Proof of Beneficial Use on October 01, 2015. An examination confirms water is diverted from:

SOURCE: GROUND WATER  **TRIBUTARY:** BOISE RIVER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

AESTHETIC STORAGE

PERIOD OF USE

03/01 to 11/15

01/01 to 12/31

DIVERSION RATE

0.84 CFS

ANNUAL DIVERSION VOLUME

189.0 AF

21.2 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L7 (NW¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L7 (NW¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
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GROUND WATER	L7 (SW¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE¼NE¼)	Sec. 21, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE¼NE¼)	Sec. 21, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L2 (NW¼NE¼)	Sec. 21, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L2 (NW¼NE¼)	Sec. 21, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L8 (SE¼SE¼)	Sec. 16, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE¼NE¼)	Sec. 21, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE¼NE¼)	Sec. 21, Twp 04N, Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE¼NE¼)	Sec. 21, Twp 04N, Rge 01E, B.M.	ADA County

PLACE OF USE: AESTHETIC STORAGE

[illegible]

State of Idaho
Department of Water Resources

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WATER RIGHT NO. 63-33400

PLACE OF USE: IRRIGATION

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	01E	16													2.0 L 8	1.0 L 7	19.0 L 7	9.0 L 8	31.0
04N	01E	21	4.0 L 1	7.0 L 2															11.0

Total Acres: 42

CONDITIONS OF APPROVAL

1. Rights 63-31515 and 63-33400 authorize total annual storage volume of 70.7 acre-feet; 49.5 acre-feet to be used for the initial filling or carryover storage of the ponds and 21.2 acre-feet for the replacement of losses caused by evaporation.
2. The 17 ponds established by the storage of water under rights 63-31515 and 63-33400 shall not exceed a total combined capacity of 49.5 acre-feet or a total surface area of 12 acres.
3. To mitigate for the depletion of water resulting from the use of water under combined rights 63-31515 and 63-33400, and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water right for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the right is being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-32614	Irrigation	1.58	355.5	79.0

The land that will no longer be irrigated under this right is located within the SE1/4, Section 16 and N1/2NE1/4, Section 21, Township 04N, Range 01E, B.M. If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the right holder shall immediately implement an alternative mitigation plan approved by the department.

4. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
5. 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.
6. Water bearing zone to be appropriated is from 1 to 15 feet.
7. 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.
8. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources

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WATER RIGHT NO. 63-33400

9. Place of use and points of diversion are located within Rivers End Subdivision 1-3.

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 28th day of July, 2016.



Nick Miller
Manager, IDWR Western Region



Amended

State of Idaho
Department of Water Resources

Amended

Attachment to Water Right License 63-33400

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.

01E



0 0.075 0.15 0.3 Miles

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



Amended

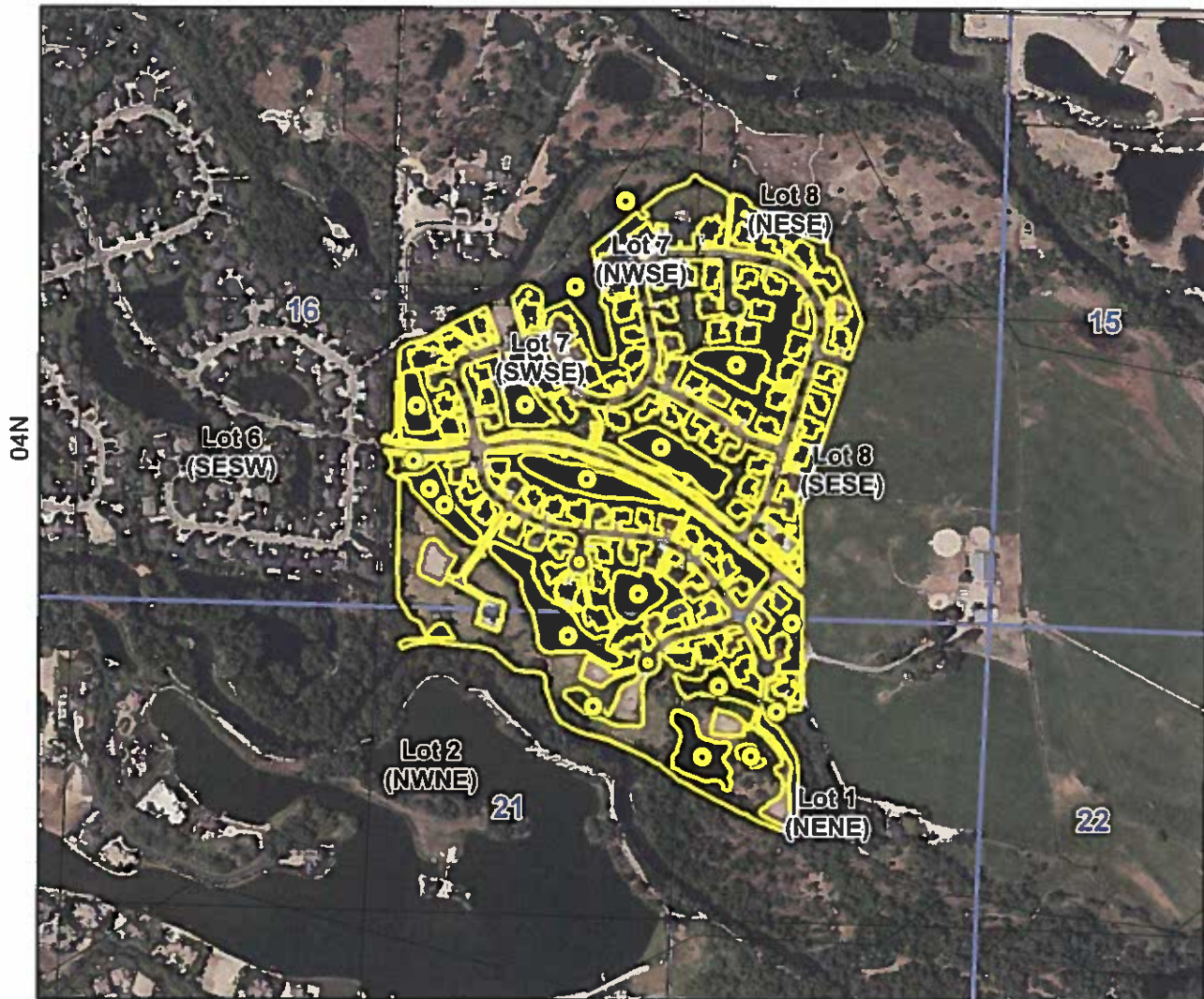
State of Idaho
Department of Water Resources

Amended

Attachment to Water Right License 63-33400

This map depicts the IRRIGATION 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



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

0 0.1 0.2 0.4 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

July 28, 2016

RIVERS END NEIGHBORHOOD ASSN INC
9601 W STATE #203
BOISE ID 83714

RE: License No. 63-33400

Issuance of Amended License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Amended 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 amended 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,

Nick Miller

Western Regional Manager

Enclosure(s)

cc: ERO RESOURCES CORP

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Amended License) to the person(s) listed below:

RE: WATER RIGHT NO.

63-33400

**ERO RESOURCES CORP
C/O DAVID SHAW
3314 GRACE ST
BOISE ID 83703**

**RIVERS END NEIGHBORHOOD ASSN INC
9601 W STATE #203
BOISE ID 83714**



**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.

July 27, 2016

Nick Miller, Manager
Department of Water Resources Western Region
2735 Airport Way
Boise, ID 83705-5082

RE: Proposed License for 63-33400

Dear Nick:

Today I had the opportunity to review the proposed license for 63-33400 in the name of Rivers End Neighborhood Assn Inc with Danie Merriman and Patrick Kelly in your office. We noted the total amount of water and irrigated acres are correct but Condition 9 appears to be incomplete as shown on the illustration attached to the proposed license.

The illustration shows some lots on the east side of the subdivision are excluded from the place of use and the lot and block numbers are missing from Condition 9. I realize the illustration is "... solely for illustrative purposes" but the omission from Condition 9 does appear to be in error.

Attached is a copy of the map submitted with the Field Exam that shows the lots on the east side of the subdivision are irrigated and should be included in Condition 9.

Please let me know if anything else needs to be done for a corrected license to be issued. Also, I am sending this letter via email, please let me know if I need to follow with a hard copy for your records.

Thank you in advance please let me know if you have questions.

Yours truly,



Attachments

cc: Rivers End Neighborhood Assn Inc.

Denver
1842 Clarkson St.
Denver, CO 80218
303.830.1188

Durango
1015 ½ Main Avenue
Durango, CO 81301
970.422.2136

Hotchkiss
P.O. Box 932
161 South 2nd St.
Hotchkiss, CO 81419
970.872.3020

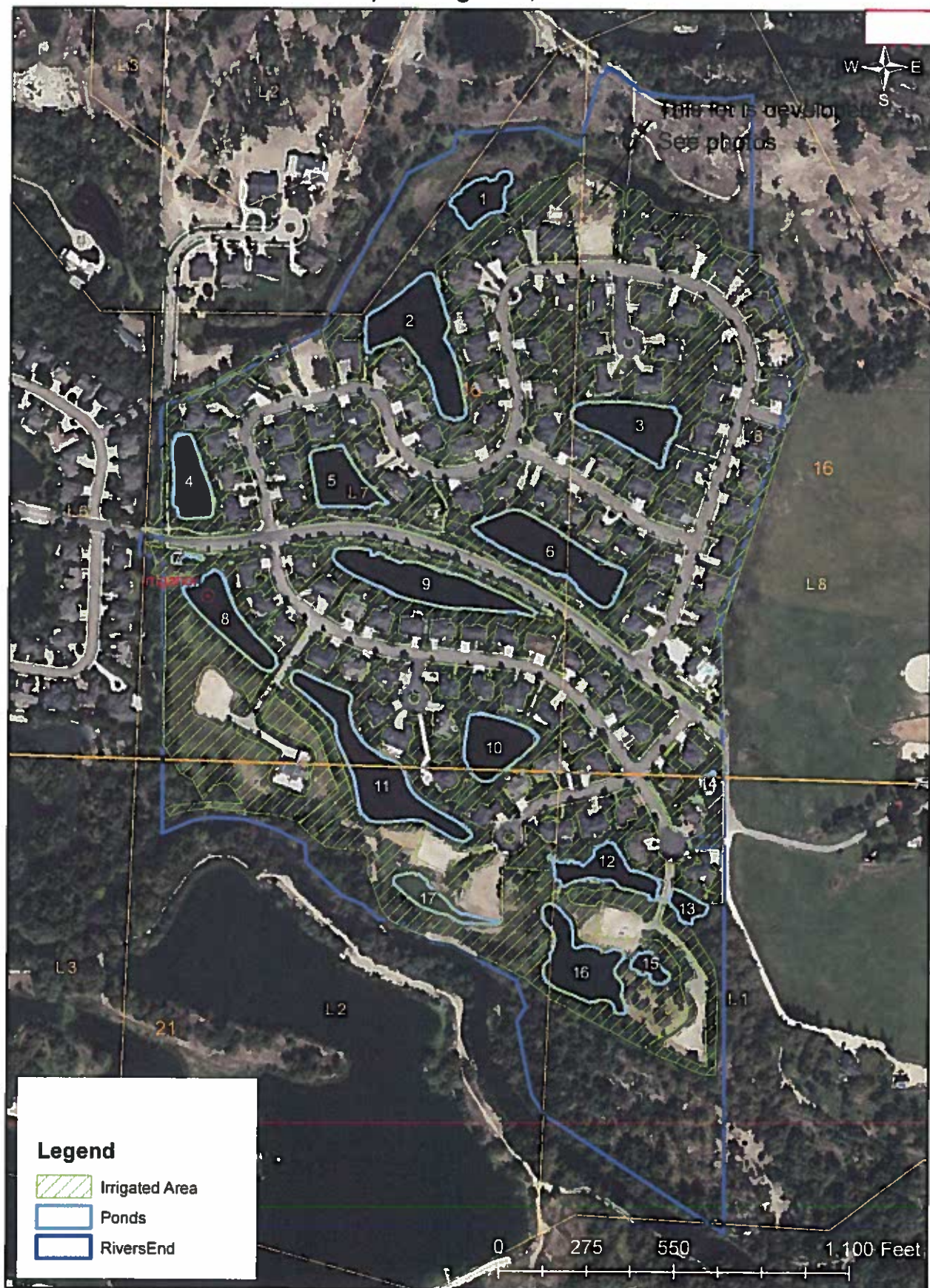
Idaho
4001 East Main Street
Emmett, ID 83617
208.365.7684

www.eroresources.com

Consultants in
Natural Resources
and the Environment

Rivers End Subdivision

In Twp 4N Rge 1E, B.M.



Based on 2013 NAIP Photography

Prepared for Rivers End Neighborhood Assn Inc by ERO 9-2015