

State of Idaho  
Department of Water Resources  
**Water Right License**  
WATER RIGHT NO. 63-33400

**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 |
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| 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]

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**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<br>L 8 | 1.0<br>L 7 | 19.0<br>L 7 | 9.0<br>L 8 | 31.0   |
| 04N | 01E | 21  | 4.0<br>L 1 | 7.0<br>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.

| <u>Right No.</u> | <u>Use Changed to Mitigation</u> | <u>Mitigation Rate (cfs)</u> | <u>Mitigation Volume (AF)</u> | <u>Mitigation Acres</u> |
|------------------|----------------------------------|------------------------------|-------------------------------|-------------------------|
| 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.

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9. Place of use and points of diversion are located within lots 1, 16, 23, 29, 30, 32, and 33 of block 1, lots 1 and 12 of block 2, lot 1 of block 3, lots 2, 11, and 21 of block 6, lot 2 of block 7, and lot 1 of block 9, Rivers End Subdivision.

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 21<sup>st</sup> day of July, 2016.



Nick Miller  
Manager, IDWR Western Region



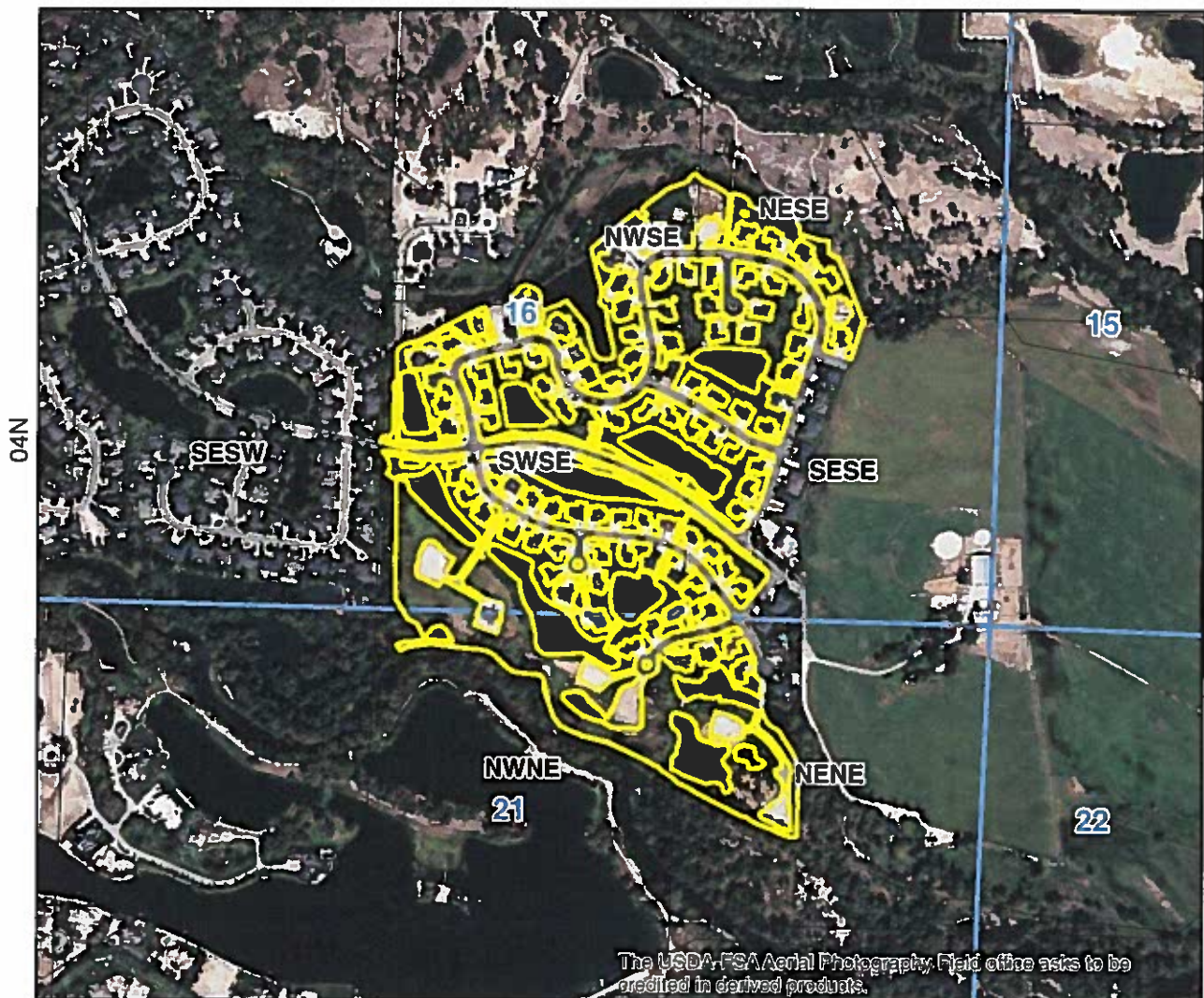
State of Idaho  
Department of Water Resources

# 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



-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

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

July 21, 2016

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

RE: License No. 63-33400

**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,

A handwritten signature in black ink that reads "Rachel Neely for." The signature is written in a cursive, flowing style.

Nick Miller  
Western Regional Manager

Enclosure(s)

cc: ERO RESOURCES CORP

## **CERTIFICATE OF SERVICE**

I hereby certify that on July 21, 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.**

**63-33400**

**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**



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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.