

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-12017

PRIORITY: July 27, 1993

Maximum Diversion Rate: 1.50 CFS
Maximum Diversion Volume: 56.0 AF

It is hereby certified that:

CITY OF EAGLE PO BOX 1520 EAGLE ID 83616

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 21, 1993, and has submitted Proof of Beneficial Use on April 08, 1999. 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>
WILDLIFE	01/01 to 12/31	1.50 CFS	56.0 AF
WILDLIFE STORAGE	01/01 to 12/31		15.0 AF
RECREATION	01/01 to 12/31	1.50 CFS	56.0 AF
RECREATION STORAGE	01/01 to 12/31		15.0 AF
AESTHETIC	01/01 to 12/31	1.50 CFS	56.0 AF
AESTHETIC STORAGE	01/01 to 12/31		15.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	1.50 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼SW¼ Sec. 3, Twp 04N, Rge 01E, B.M. ADA County
GROUND WATER NW¼SW¼ Sec. 3, Twp 04N, Rge 01E, B.M. ADA County
GROUND WATER SW¼SW¼ Sec. 4, Twp 04N, Rge 01E, B.M. ADA County

PLACE OF USE: AESTHETIC STORAGE, AESTHETIC, RECREATION STORAGE, RECREATION, WILDLIFE STORAGE, WILDLIFE

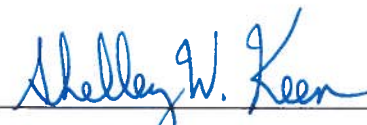
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	3								X	X	X	X	X		X		X	

CONDITIONS OF APPROVAL

1. Place of use is located within Lexington Hills and Trail Creek Subdivisions.
2. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
3. Rights 63-11413, 63-12448, and 63-12017 when combined shall not exceed a total diversion rate of 3.25 cfs.
4. Rights 63-12448 and 63-12017 when combined shall not exceed a total annual maximum diversion volume of 691.0 af.
5. The issuance of 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 7th day of April, 2016.

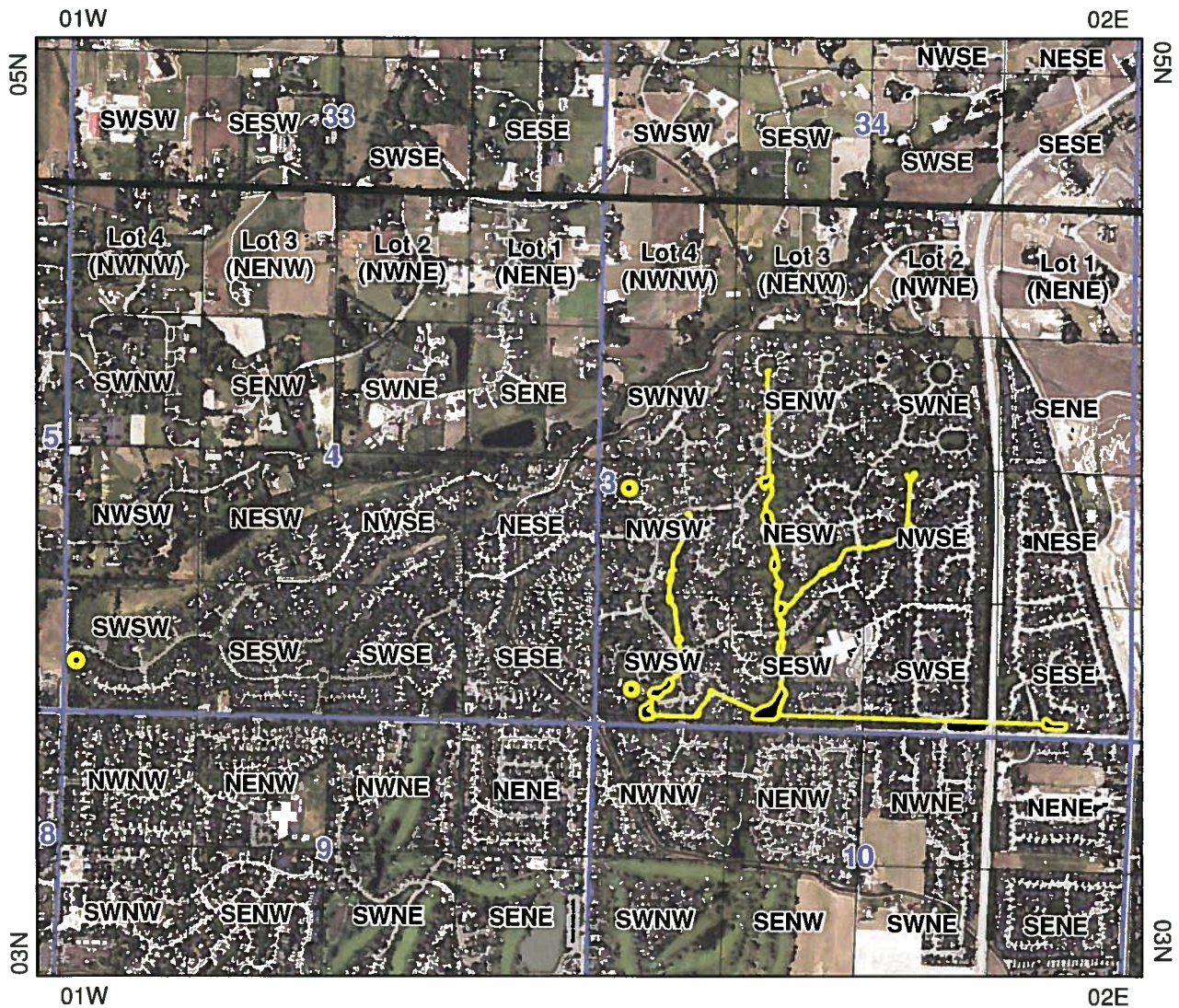

SHELLEY W. KEEN
Water Rights Section Manager

City Of Eagle

Attachment to Water Right License

63-12017

This map depicts the AESTHETIC, AESTHETIC STORAGE, WILDLIFE, WILDLIFE STORAGE, RECREATION and RECREATION STORAGE place of use boundaries 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

Townships

PLS Sections

0 0.2 0.4 0.8 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

April 8, 2016

CITY OF EAGLE
PO BOX 1520
EAGLE ID 83616

RE: License No. 63-12017

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,

Pamela Skaggs

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 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.

63-12017

**CITY OF EAGLE
PO BOX 1520
EAGLE ID 83616**



**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.

Note: Please scan this document separate from the license and field exam report. Thank you.

M E M O R A N D U M

Date: April 7, 2016
To: Water Right File 63-12017 and 63-12448
From: Ashley Newbry
Re: Licensing Memorandum

Modified Combined Volume Limit

Water permits 63-11413, 63-12448, and 63-12017 shared a combined use volume limit of 1,455 AF. Because water permit 63-12448 has always been a “municipal” nature of use; it would not have typically included a diversion limit. When the City submitted Application for Permit 63-12448, it requested this combined limit to reflect their private use-agreement with United Water Idaho. The City considered the combined diversion volume of 1,455 AF as their conservative estimate, assuming that up to 550 homes would not have access to surface water for irrigation. This combined diversion volume allowed for continued growth and development, as well as an increase in demand on the City’s east diversion and distribution system.

The City’s application also included a less conservative estimate, in the event that all of the homes were provided surface water for irrigation. This estimate of 1,125 AF per year was intended to include any volume associated with 63-12017. When I conducted the field exam for 63-11413, I learned that the entire development (today known as Lexington Hills, Brookwood, and Echo Creek) receives surface water for irrigation. Therefore, I previously proposed that water rights/permits 63-11413 (434.0 AF), 63-12448, and 63-12017 (up to 56.0 AF) share a combined use volume limit of 1,125 AF. During the process of licensing 63-12448 and 63-12017, we made an effort to simplify the 1,125 AF volume limit in the following manner:

City of Eagle Water Right No.	Volume	Combined Volume	Rate	Combined Rate
Municipal Water Right 63-11413	434 AF	434 AF	3.15 CFS	3.25 CFS
Municipal Water Right 63-12448	691 AF	691 AF	3.25 CFS	
Aesthetic, Wildlife, etc. Right 63-12017	56 AF		1.50 CFS	
Total		1,125 AF		3.25 CFS

The City and IDWR agreed to “carve out” water permit 63-12017 from permit 63-11413 in response to a complaint filed against the use of municipal water for ponds. Five acres of irrigation was removed from 63-11413 to mitigate for the consumptive portion of the 63-12017 ponds. Permit 63-12017 was issued to allow the community to fill the ponds during development of the subdivision and to top-off the ponds *when Farmers Union Canal water is not available* at build-out. The place of use for permit 63-12017 includes the subdivisions which are today known as Lexington Hills and Echo Creek (formerly Trail Creek). This permit was never amended to include Brookwood, the neighboring subdivision to the west. As part of the field exam, I measured the Lexington Hills’s water amenity ponds and found a surface area of approximately 5 acres. I utilized utility billing records to confirm a maximum annual use of 56 AF during the development period of permit 63-12017.