

RECEIVED

FEB 08 2016

DEPARTMENT OF
WATER RESOURCES

February 5, 2016

Gerald Van Reusen
West River Homeowners Association Inc

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

*Subject: Petition for Reconsideration
West River Homeowners Association Inc
Water Right License 63-32003*

On behalf of West River Homeowners Association Inc, please accept this Petition for Reconsideration of the license issued for water right 63-32003.

The permit was approved providing 0.12 cfs and 10.1 afa for domestic use for 36 homes with a limit of 13,000 gpd per home.

The beneficial use field exam found a diversion capacity of 0.05 cfs, 5 homes constructed and all 36 lots stubbed in. IDWR's proposed license limits the right to 0.05 cfs, 1.4 afa and 5 homes. These proposed limits are inconsistent with department policy¹ that provides for inclusion of stubbed-in lots if the water supply is sufficient to meet the anticipated demand.

¹ Administrator's Licensing Memorandum No. 1, October 19, 2009.

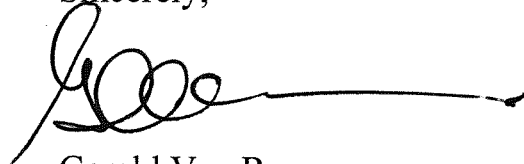
The 0.05 cfs capacity identified in the beneficial use exam is capable of providing 32,330 gpd, or 898 gpd each for 36 homes. The 0.05 cfs is capable of providing the permitted 10.1 afa. The 0.05 cfs is sufficient to supply 36 homes providing a storage tank is constructed, and this storage will be added when it is necessary to do so.

The permit was issued providing 0.12 cfs for 36 homes. A capacity of 0.05 cfs was developed, which at the permitted duty of 0.003 cfs per home is sufficient for fifteen homes. At an absolute minimum, the license should be limited to 15 homes and 4.2 afa.

As we discussed during our meeting with you prior to licensing, HOA operators were not aware of all of the permit's conditions, including the condition requiring recording flowmeter readings. Upon being advised of this condition, the operator has regularly recorded meter reading and will continue to do so. Limiting the license to only five homes based on failure to read the flowmeter is an arbitrary penalty that is inconsistent with Department policy and practice.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gerald Van Reusen', followed by a long horizontal line extending to the right.

Gerald Van Reusen

cc: SPF Water Engineering, LLC



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" OTTIER
Governor

GARY SPACKMAN
Director

January 28, 2016

WEST RIVER HOMEOWNERS ASSOCIATION INC
C/O GERALD VAN REUSEN
PO BOX 1396
NAMPA ID 83653

RE: License No. 63-32003

Issuance of License

Dear Water Right Holder(s):

The Department acknowledges receipt of the proof of beneficial use form, and beneficial use field report submitted for the above referenced permit. Enclosed is an order that reinstated this permit, since proof and the license examination fee were submitted after the proof deadline. Please note that the priority date for this permit has been advanced to November 17, 2015, as provided in section 42-218a(2), Idaho Code.

The Department of Water Resources has also 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 January 29, 2016, I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDERS (**Preliminary Order Reinstating A Permit**) & (**Approved License**) to the person(s) listed below:

RE: WATER RIGHT NO.

63-32003

**WEST RIVER HOMEOWNERS ASSOCIATION INC
C/O GERALD VAN REUSEN
PO BOX 1396
NAMPA ID 83653**

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

**Darla Block
Technical Records Specialist**

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-32003

Priority: November 17, 2015

Maximum Diversion Rate: 0.05 CFS
Maximum Diversion Volume: 1.4 AF

It is hereby certified that WEST RIVER HOMEOWNERS ASSOCIATION INC
C/O GERALD VAN REUSEN
PO BOX 1396
NAMPA ID 83653 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated October 15, 2004; and has submitted Proof of
Beneficial Use on November 17, 2015. 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>
DOMESTIC	01/01 to 12/31	0.05 CFS	1.4 AF
FIRE PROTECTION	01/01 to 12/31	0.05 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4SE1/4 Sec. 6, Twp 02N, Rge 03W, B.M. CANYON County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N 03W 6														X	X		

PLACE OF USE: FIRE PROTECTION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N 03W 6														X	X		

CONDITIONS OF APPROVAL

1. The water right holder shall maintain a measuring device on the mainline from its well to accurately measure the instantaneous flow from the well, record the maximum flow for a given month, and measure and record the total volume of water diverted. The totalizer function of the measuring device must be capable of totalizing several years of volume diverted, and must not allow the operator to reset the volume totalizer. The measuring device must be of a type approved by IDWR. The measuring device must be calibrated after installation with an independent, reliable, portable measuring device that has been pre-calibrated to a known flow rate. The measuring device must be re-calibrated at least every three years after the first calibration.
2. The water right holder must read the measuring device and record the information read at least monthly. The water right holder must read and record the maximum flow rate diverted and the totalizer readings of volume diverted. The water right holder must also maintain records of the dates of measuring device calibration, the method of calibration, and who performed the calibration. These records must be maintained by the water right holder at all times and must be submitted to the Department at any time the Department requests the records.

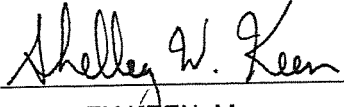
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-32003

3. The right holder shall submit a report by January 31, 2017 showing the monthly meter readings for 2016 and confirmation of calibration of the flow meter. Until notified by the Department, annual reporting after the January 31, 2017 report is not required by the right holder.
4. Place of use is located within Lot 1, Blk. 2; Lots 5-7, Blk. 2; and Lot 14, Blk. 2; West River Subdivision.
5. Points of diversion are located within Lot 11, Blk. 2; West River Subdivision.
6. Domestic use is for 5 homes and does not include lawn, garden, landscape, or other types of irrigation.
7. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.
8. Water bearing zone to be appropriated is from 250 to 500 feet.
9. Only one well may be operated at a time under this water right except in the case of a fire unless the Department expressly approves a method of measurement and reporting that insures adherence to annual volume limitations while water is pumped from both wells simultaneously.
10. 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.
11. Noncompliance with any condition of this right 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.

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 27th day of January, 2016.



SHELLEY KEEN, Manager
Water Rights Section

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-32003

This map depicts the DOMESTIC 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

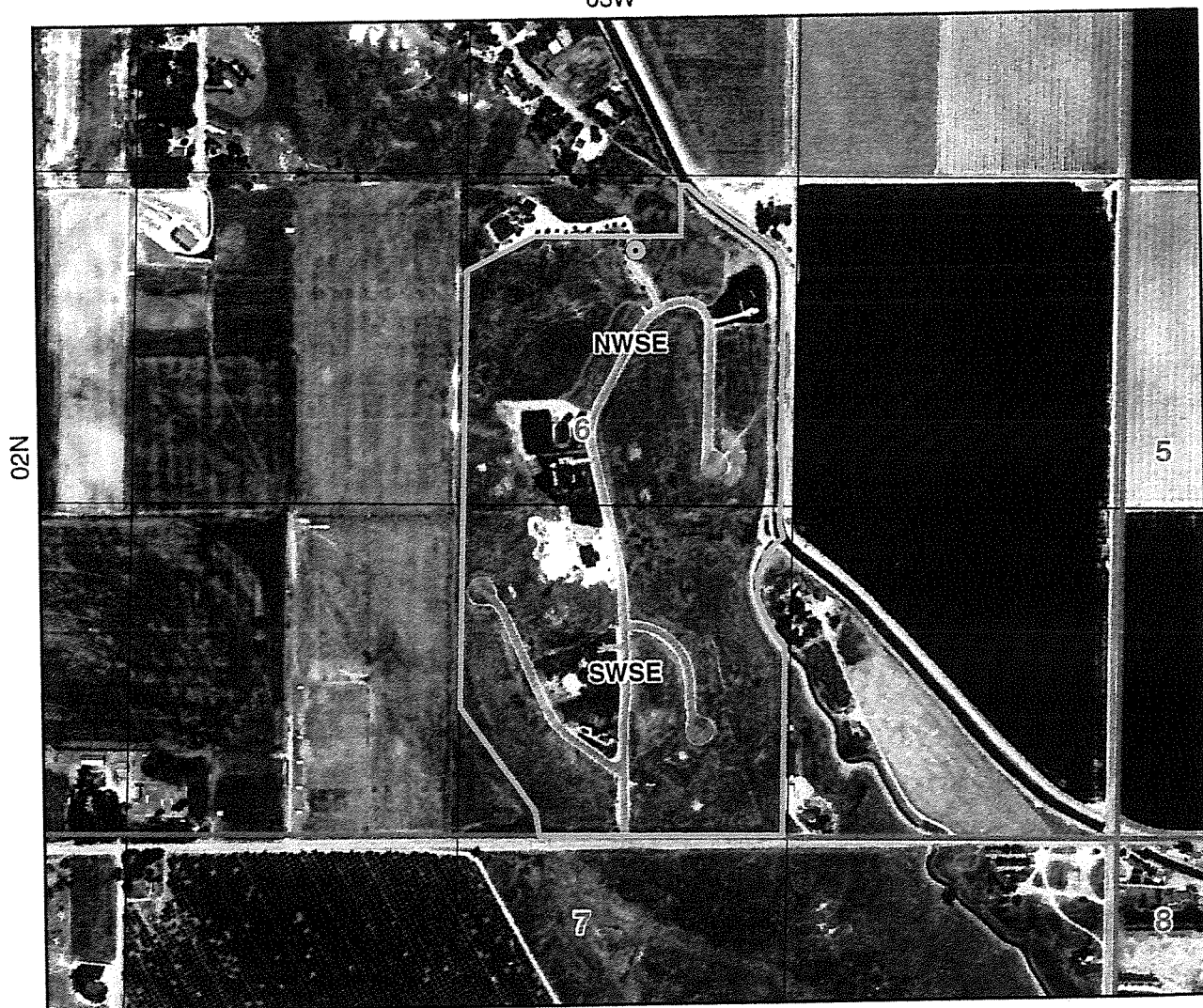
0 0.075 0.15 0.3 Miles



State of Idaho
Department of Water Resources
Attachment to Water Right License
63-32003

This map depicts the FIRE PROTECTION 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.

03W



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

0 0.075 0.15 0.3 Miles



**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT
NO. 63-32003 IN THE NAME OF
WEST RIVER HOMEOWNERS
ASSOCIATION, INC.

**PRELIMINARY ORDER
REINSTATING A PERMIT**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On June 16, 2006, the Department issued permit no. 63-32003 ("permit") in the name of Marlin Land Owners, LLC, with the condition that proof of construction of works and application of water to beneficial use ("proof of beneficial use") be submitted to the Department on or before June 1, 2007. The permit bore the priority date of October 15, 2004.
2. On March 31, 2007, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or a Request for Extension of Time ("extension request").
3. On May 31, 2007, and May 30, 2008, the permit holder filed requests for extension of time to submit proof of beneficial use with the Department. The Department granted the extensions based on due diligence or good cause. The final extension set a proof of beneficial use deadline of June 1, 2013.
4. On July 28, 2008, Marlin Land Owners, LLC assigned the permit to West River, LLC.
5. On March 31, 2013, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or an extension request.
6. On June 1, 2013, the permit lapsed since the Department had not received an acceptable proof of beneficial use statement or request for extension of time.
7. On June 6, 2013, the Department sent the permit holder notice that the permit had lapsed.
8. On June 4, 2014, the Department received the permit holder's proof of beneficial use statement.
9. Idaho Code§ 42-218a.2 provides as follows:

In connection with a proof of beneficial use statement submitted more than sixty (60) days after such notice of lapsing, the director shall require all of the following items to be submitted to the department:

- (a) A report prepared by a certified water right examiner as a result of an examination to clearly confirm and establish the extent of the beneficial use of water established in

connection with the permit during the time authorized by the permit and any extensions of time previously approved. The report shall be on a form or forms specified by the director and shall provide the information specified in section 42-217, Idaho Code, for confirming beneficial use and such other information as may be required by the director.

(b) A statement of reasonable cause for filing a late proof of beneficial use.

(c) A reinstatement fee of two hundred fifty dollars (\$250).

10. On June 9, 2014, the Department sent a proof deficiency letter and returned the proof with instructions for seeking reinstatement of the permit.

11. On November 17, 2015, the Department received a proof of beneficial use statement, request to reinstate permit no. 63-32003, a beneficial use field report prepared by a certified water right examiner, a statement of reasonable cause for filing a late proof of beneficial use, and the required reinstatement fee. West River Homeowners Association, Inc. supplied the documentation

12. On November 23, 2015, West River, LLC assigned the permit to West River Homeowners Association, Inc. ("permit holder").

CONCLUSIONS OF LAW

1. The permit holder has provided a reasonable showing why the permit should be reinstated by submitting an acceptable proof of beneficial use statement on November 17, 2015, and evidence that beneficial use of the water occurred during the authorized development period in accordance with the permit.

2. The Department should reinstate permit no. 63-32003 with the priority advanced to the date that proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED that Permit No. 63-32003 is **REINSTATED** and the permit's priority date is advanced to November 17, 2015.

Dated this 27th day of January, 2016.

Shelley W. Keen

Shelley Keen, Manager
Water Rights Section