

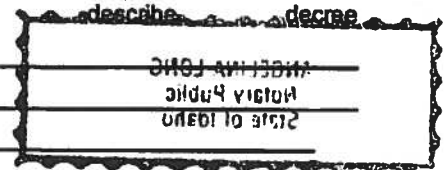
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT

Section 42-222, Idaho Code, provides that a water right shall be lost and forfeited and the water right revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

1. Name of water right holder Lexington Hills, Inc.
2. Mailing address 3319 Dewey St., Boise, ID 83703 w/ copy to John Marshall Email 385dave@gmail.com
3. The right was obtained or is evidenced by:

a. Decree to _____ in Case of _____
vs. _____, Dated _____ in _____
Court, _____ County _____ of _____ Fully _____
(Name of Court)



- b. License No. _____ c. Claim No. _____
d. SRBA No. 63-123F
4. Source of water Boise River (Name of stream or source) tributary to Snake River
5. Date of priority of right June 1, 1864
6. Description of Right:
amount 1.385 CFS (cfs/ac-ft) for Irrigation purposes from 3-01 to 11-15
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
7. Point of Diversion SE 1/4 NE 1/4 of Sec. 05 Twp. 3N Rge. 2E County Ada

8. Lands Irrigated or Place(s) of Use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres Digital boundary

9. Give the last date when water was put to beneficial use Decreed in SRBA in 2009
Length of extension of time requested 5 years, or until _____ (Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use Right is appurtenant to the hardscape surfaces in a developed residential subdivision and is no longer being used. Right will eventually be transferred and used in another location.

The information contained in this application is true to the best of my knowledge.

(Signature of Applicant)

Pres Lexington Hills Inc

Subscribed and sworn to before me this

5th

day of

April

20

17

ANGELINA LONG
Notary Public
State of Idaho

(Notary Public)

My commission expires

09/14/2015

Residing at

150 W. State St. Eagle, ID 83624

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application subject to the following conditions or reasons:

Signed this _____ day of _____, 20 _____.

Chief, Water Allocation Bureau

FOR DEPARTMENT USE ONLY

Date Received 12-30-11 FEE Received by _____ Date _____ Receipt # 1094513

Preliminary T by _____ Publication prepared by _____ Pub. approved by _____ Date _____

Published in _____ Dates Published Nov 5 + 12, 2015

Protests filed by _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____

Recommended for - APPROVAL / DENIAL By _____

No. C 93049	Due no later than Aug 31, 2012 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. LEXINGTON HILLS, INC. DENNIS J WHITMORE 3319 DEWEY ST BOISE ID 83703 USA		DUANE STUECKLE 3319 DEWEY ST. BOISE ID 83703			
			3. <u>New</u> Registered Agent Signature:*			
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
DIRECTOR	DAVE ROYLANCE	3319 DEWEY ST	BOISE	ID	USA	83703
DIRECTOR	HARVEY NEEF	5430 W. STATE	BOISE	ID	USA	83703
DIRECTOR	BERT BRADLEY	3319 DEWEY ST.	BOISE	ID	USA	83703
SECRETARY	DENNIS WHITMORE	3319 DEWEY ST.	BOISE	ID	USA	83703
PRESIDENT	DUANE STUECKLE	200 PARKWAY	BOISE	ID	USA	83706
5. Organized Under the Laws of: ID C 93049		6. Annual Report must be signed.* Signature: Dennis j Whitmore Name (type or print): Dennis j Whitmore Date: 06/14/2012 Title: Secretary				
Processed 06/14/2012		* Electronically provided signatures are accepted as original signatures.				

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, October 29, 2015 11:57 AM
To: 'LEGALS@IDAHOSTATESMAN.COM'
Subject: Legal Notice
Attachments: Legal Notice.docx

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to the State office, PO Box 83720, Boise, Idaho, 83720-0098 before November 23, 2015. Your cooperation is appreciated.

Sincerely

Jean Hersley
Technical Records Specialist II
IDWR State Office
322 E Front St
Boise ID 83720
208-287-4942
jean.hersley@idwr.idaho.gov

NOTICE OF APPLICATION

Notice is hereby given that the following Application for Extension of Time to Avoid Forfeiture with the Department of Water Resources for a water right within Ada County:

Water Right No. 63-123F

Priority Date: 04/01/1864

Name: Lexington Hills Inc

Source: Boise River

Use: 1.385 cfs

Point of Diversion: T03N R02E Sec5 NESENE

Place of use: The Lexington Hills Subdivision boundary

The extension is requested to avoid loss of the water right due to non- use and will eventually be transferred to another location.

For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right, please see <http://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the proposed application must be filed with the director, Dept. Water Resources, State Office, 322 E Front St, PO Box 83720, Boise, ID, 83720 together with a protest fee of \$25.00 for each application on or before 11/23/2015. The protestant must also send a copy of the protest to the applicant.

Gary Spackman, Director

Published November 5 and 12, 2015



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

October 27, 2015

LEXINGTON HILLS INC
3319 DEWEY ST
BOISE ID 83703

RE: Extension of Time to Avoid Forfeiture of a Water Right 63-123F

Dear Applicant(s):

The Department of Water Resources has received your Extension of Time to Avoid Forfeiture application. Please refer to the water right number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO STATESMAN on 11/5/2015 and 11/12/2015. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office at (208) 287-4800 if you have any questions regarding the application.

Sincerely,

Jean Hersley
Technical Records Specialist

c: John Marshall Law

Keen, Shelley

From: John Marshall [john@jmarshalllaw.com]
Sent: Monday, October 19, 2015 3:12 PM
To: Keen, Shelley
Subject: Fwd: Water Bank Application for 63-123F

----- Forwarded message -----

From: Van Bussum, Monica <Monica.VanBussum@idwr.idaho.gov>
Date: Thu, Apr 5, 2012 at 4:34 PM
Subject: RE: Water Bank Application for 63-123F
To: John Marshall <john@jmarshalllaw.com>

Will do, John. Thanks!

From: John Marshall [mailto:john@jmarshalllaw.com]
Sent: Thu 4/5/2012 4:06 PM

To: Van Bussum, Monica
Subject: Re: Water Bank Application for 63-123F

Hi Monica,

I've got the application now. Copy attached. If you need the original, let me know and I can mail it. Please withdraw and return the water bank application filed by Lexington Hills, Inc. for right 63-123F and refund the application fee. Please use \$100 of the refunded water bank application fee to cover the fee for the Application for Extension of Time and send the balance to me.

Thank you,

John

On Wed, Apr 4, 2012 at 9:59 AM, Van Bussum, Monica <Monica.VanBussum@idwr.idaho.gov> wrote:

Hi John,

As another follow-up, it appears you need me to return the WSB application. Can you send me an email or letter requesting the withdrawal of the Water Supply Bank lease application? That will allow me to move the funds to the application for extension of time and refund the balance. Also, can you give me a timeline for when the application for extension will arrive? I'd like to move the funds and return the WSB application at the same time. Give me a call if that's confusing or if you have any questions.

Monica

From: John Marshall [mailto:john@jmarshalllaw.com]
Sent: Tuesday, April 03, 2012 11:31 AM

To: Van Bussum, Monica
Subject: Re: Water Bank Application for 63-123F

Monica, I think Lex Hills is going to stay on the path of filing the application for extension, but I went back today and looked at the rules, forms etc for a the water bank to see what they say about the need for consent of the canal company. To be sure that I'm not missing something, were you looking at Water Supply Bank Rule 25.02.e when requiring that we obtain the consent of Farmer's Union? If so, what portion of the rule requires consent in this situation? I don't read the rule to require consent in our circumstance. Again, I think Lex Hills is going to stick with the application for extension, so mainly just curious. Thanks,

John

On Mon, Apr 2, 2012 at 5:03 PM, John Marshall <john@jmarshalllaw.com> wrote:

I asked again today. Hopefully I can get the app to you this week.

On Sun, Apr 1, 2012 at 3:12 PM, Van Bussum, Monica <Monica.VanBussum@idwr.idaho.gov> wrote:

Hi John,

I just thought I'd check in and see if you've been able to get in touch with Lexington Hills about the status of their Water Supply Bank and application for extension of time. Hope you had a good weekend.

Monica

From: John Marshall [mailto:john@jmarshalllaw.com]
Sent: Thursday, March 22, 2012 9:56 AM

To: Van Bussum, Monica
Subject: Re: Water Bank Application for 63-123F

Thanks.

On Wed, Mar 21, 2012 at 4:25 PM, Van Bussum, Monica <Monica.VanBussum@idwr.idaho.gov> wrote:

It hasn't been mailed but it should be tomorrow. Here's a scanned copy but I'd ask that you allow time for the mail to get to all the recipients before you take any action. The first 2 pages comprise the Department's response. The last page is the letter from Farmers Union's attorney.

By the way, I hadn't realized this before, but extensions of time require advertisement and are open to protest. I've never done an extension of time, so that's probably just me not knowing, but I thought I'd let you know in case that changes your mind or your client's based on your knowledge of the situation.

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From: John Marshall [<mailto:john@jmarshalllaw.com>]

Sent: Wednesday, March 21, 2012 3:37 PM

To: Van Bussum, Monica

Subject: Re: Water Bank Application for 63-123F

Not yet. I asked Lex Hills about status a couple of days ago, and the fellow who needs to sign is in Mexico on vacation. I'll send the application as soon as I get it. I didn't see the response from Shelley. Can you send me a copy?

Thanks, John

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Hi John,

This came up today in conversation with Shelley Keen. The folks from Farmers Union asked the Department to inform them of any pending administrative requests. I believe you are copied on the response from Shelley. I haven't seen the application to avoid forfeiture from Lexington Hills and haven't been asked about transferring fees. Do you need me to hunt something down? Thanks!

Monica

From: John Marshall [mailto:john@jmarshalllaw.com]

Sent: Tuesday, March 06, 2012 10:30 AM

To: Van Bussum, Monica

Subject: Re: Water Bank Application for 63-123F

Hi Monica. Yes, this is what we want to do. I have the application to avoid forfeiture out to the client and will forward it once I receive the executed copy from them. Should I send it to your attention? Thanks, John

On Wed, Feb 22, 2012 at 10:51 AM, Van Bussum, Monica <Monica.VanBussum@idwr.idaho.gov> wrote:

Hi John,

I apologize for the delay in my response. We moved offices last week (same building, just a different cubicle configuration for my little section). Yes, we can transfer the fees from the Bank. The application for extension is only \$100, so we would transfer \$100 and then refund the \$150. Let me know if that's what you want to do and I'll send the request to Fiscal.

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From: John Marshall [mailto:john@jmarshalllaw.com]

Sent: Thursday, February 16, 2012 2:31 PM

To: Van Bussum, Monica

Subject: Water Bank Application for 63-123F

Monica,

I received your letter dated February 14, 2012 concerning water right 63-123F. The client informed me yesterday that they will go with an application to avoid forfeiture in lieu of the water bank application. Consequently, I will submit that application shortly, and there is no need to further process the water bank application. On your side of things, what is the best way to handle the mechanics of the fees? Can I leave bank the application fee with the Department and have it credited against the fee for the forfeiture application?

Thanks,

To: Water right file 63-123F
From: Sandy Thiel
Date: October 28, 2015
Re: Extension of time to avoid forfeiture

John Marshall called about the extension of time beginning in 2015 instead of the time when the application was originally submitted. The water right was decreed in 2009 so it is still within the time frame for the 5 years. He said that the longer the time the better from his client's perspective. So he is happy to see the extension of time start now.

Keen, Shelley

From: Keen, Shelley
Sent: Monday, October 19, 2015 3:19 PM
To: 'John Marshall'
Subject: RE: Water Bank Application for 63-123F

John,

I received your email with the extension request attached. As we discussed, we will review the history and determine where we can go from here.

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

From: John Marshall [mailto:john@jmarshalllaw.com]
Sent: Monday, October 19, 2015 3:16 PM
To: Keen, Shelley
Subject: Fwd: Water Bank Application for 63-123F

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From: John Marshall <john@jmarshalllaw.com>
Date: Thu, Apr 5, 2012 at 4:06 PM
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