

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-33985

Priority: August 22, 2014

Maximum Diversion Volume: 178.0 AF

This is to certify, that PINWOOD LAKES RESERVE HOA
PO BOX 388
STAR ID 83669

has applied for a permit to appropriate water from:

Source: GROUND WATER**Tributary:** BOISE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31		178.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE1/4NW1/4	Sec. 18, Twp 04N, Rge 01W, B.M.
ADA County		
GROUND WATER	SW1/4NE1/4	Sec. 18, Twp 04N, Rge 01W, B.M.
ADA County		
GROUND WATER	SE1/4NW1/4	Sec. 18, Twp 04N, Rge 01W, B.M.
ADA County		
GROUND WATER	SW1/4NE1/4	Sec. 18, Twp 04N, Rge 01W, B.M.
ADA County		
GROUND WATER	SE1/4NW1/4	Sec. 18, Twp 04N, Rge 01W, B.M.
ADA County		

PLACE OF USE: AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N 01W 18			X					X									

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2016**.
2. Subject to all prior water rights.
3. This right authorizes the diversion of an annual total of 178 acre-feet to be used for the initial filling of the ponds and for the replacement of losses caused by evaporation.

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4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
5. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 10th day of April, 2015.



JEFF PEPPERSACK
Interim Western Region Manager





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

April 13, 2015

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

PINEWOOD LAKES RESERVE HOA
PO BOX 388
STAR ID 83669

RE: Permit No.63-33985

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

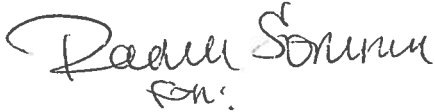
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Also, 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 cursive script, appearing to read "Jeff Peppersack". Below the signature, the letters "JP" are written in a smaller, simpler script.

Jeff Peppersack
Interim Manager, Western Region

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 63-33985

**PINEWOOD LAKES RESERVE HOA
PO BOX 388
STAR ID 83669**

**REX R BARRIE
WATER MASTER
10769 W STATE ST
PO BOX 767
STAR ID 83669**



**Rachel Sommer
Water Resource Agent**

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.

Lester, Steve

From: Lester, Steve
Sent: Monday, December 08, 2014 8:55 AM
To: 'Rex Barrie'
Subject: RE: Application 63-33985

Rex:

I understand the concern, but we cannot require mitigation in an area open to new rights where mitigation is not required for a broader concern such as lack of available water. This site is close to but outside the fully appropriated reach of the river system. The ditch company did not protest the application. The ponds have been there for at least a few years without any reports of problems.

The department would not be able to justify withholding approval or requiring further actions from the applicant to get an approval. I should approve it on that basis. Glad to discuss if you want to but don't see other options available to me in this case.

Steve

From: Rex Barrie [<mailto:waterdistrict63@qwestoffice.net>]
Sent: Monday, December 08, 2014 7:56 AM
To: Lester, Steve
Subject: RE: Application 63-33985

Steve,

I think this should be required to have mitigation as it lies next to the Canyon County Water Company, Canyon County Ditch. The ponds are below the level of their canal and are located in an alluvial area where water from the canal is migrating into their system.

I am forwarding this to the Canyon County Water Company for their review.

Rex R. Barrie
Boise River Watermaster

From: Lester, Steve [<mailto:Steve.Lester@idwr.idaho.gov>]
Sent: Friday, November 28, 2014 12:34 PM
To: Rex Barrie (waterdistrict63@qwestoffice.net)
Subject: Application 63-33985

Hi Rex:

Hope you had a good Thanksgiving & you are enjoying some well deserved time off.

Attached info is for existing ponds, Pinewood Lakes, just north of the Governor's place below Star Bridge. Shallow ground water tributary to the river, no inlet or outlet, just excavated.

Previously covered under other approvals but now needs new approval, see attached memo.

We should have sent you a comment letter during advertising, but that got overlooked – sorry about that.

This is ready to approve if you are ok with it. Will include standard condition about subject to Watermaster control and something along these lines just in case there are future problems (unlikely but you never know):

Upon notification by the department, the right holder shall install controllable and lockable outlet works from the ponds authorized under this right. The outlet works shall be constructed in a manner acceptable to the Watermaster and the department to protect senior water rights.

Please reply by December 15. We will assume the application should be approved as proposed if we don't hear from you by then. Please let me know if you need more information.

Steve

MEMORANDUM

TO: File

FROM: Steve Lester 

DATE: November 28, 2014

RE: Application 63-33985

Pinewood Lakes Reserve HOA (Pinewood) has 5 shallow ground water ponds on the north side of the Boise River just downstream from the Star Bridge. The ponds were developed under 63-31924 that originated in the early 2000's when new consumptive of ground water throughout Basin 63 required mitigation.

Pinewood ponds were to be mitigated with ditch shares under Transfer 71234, Middleton Irrigation Association (nature of use change, 63-198AC). Recent field exam work for 63-31924 confirmed mitigation was not developed, resulting in an 8/5/2014 order voiding and refusing to license 63-31924.¹ A request from the ditch company to rescind the transfer is being processed by Western Region.

In February, 2008, Amended Application Memo #59 lifted the requirement to mitigate new consumptive use from ground water downstream from the Star Bridge. Pinewood now seeks approval for the ponds under Application 63-33985 without mitigation. A map showing the ponds is attached.

Several loose ends are summarized below.

Original application with \$40 payment was received 8/22/2014, and the remaining \$250 fee was paid later that day.

Application was incorrectly published due to applicant and department error. Applicant amended the application and paid the \$50 re-advertising fee, see attached receipt.

Amended application clarifies information without expansion, priority not affected.

Average pond depth is correctly noted as 15 feet on page 2 of the application but was not corrected on page 1, a detail not needing to be fixed before application approval.

Evaporation of 35 af is approximately based on standard irrigation consumptive use for the site. This is an acceptable method noted in Transfer Memo #26.

Boise River is data entered as the tributary without requiring this information on the application form. The Watermaster should have been notified during advertising but was not. His comments will be solicited before approving the application.

¹ That permit was relinquished shortly after the void order, a bit too late to avoid the order.



Idaho Department of Water Resources

Application
63-33985
(AESTHETIC)

01W

● Point of Diversion

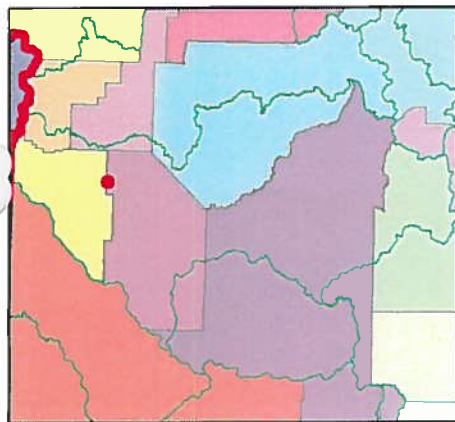
Place of Use

State Outline

Townships

PLS Sections

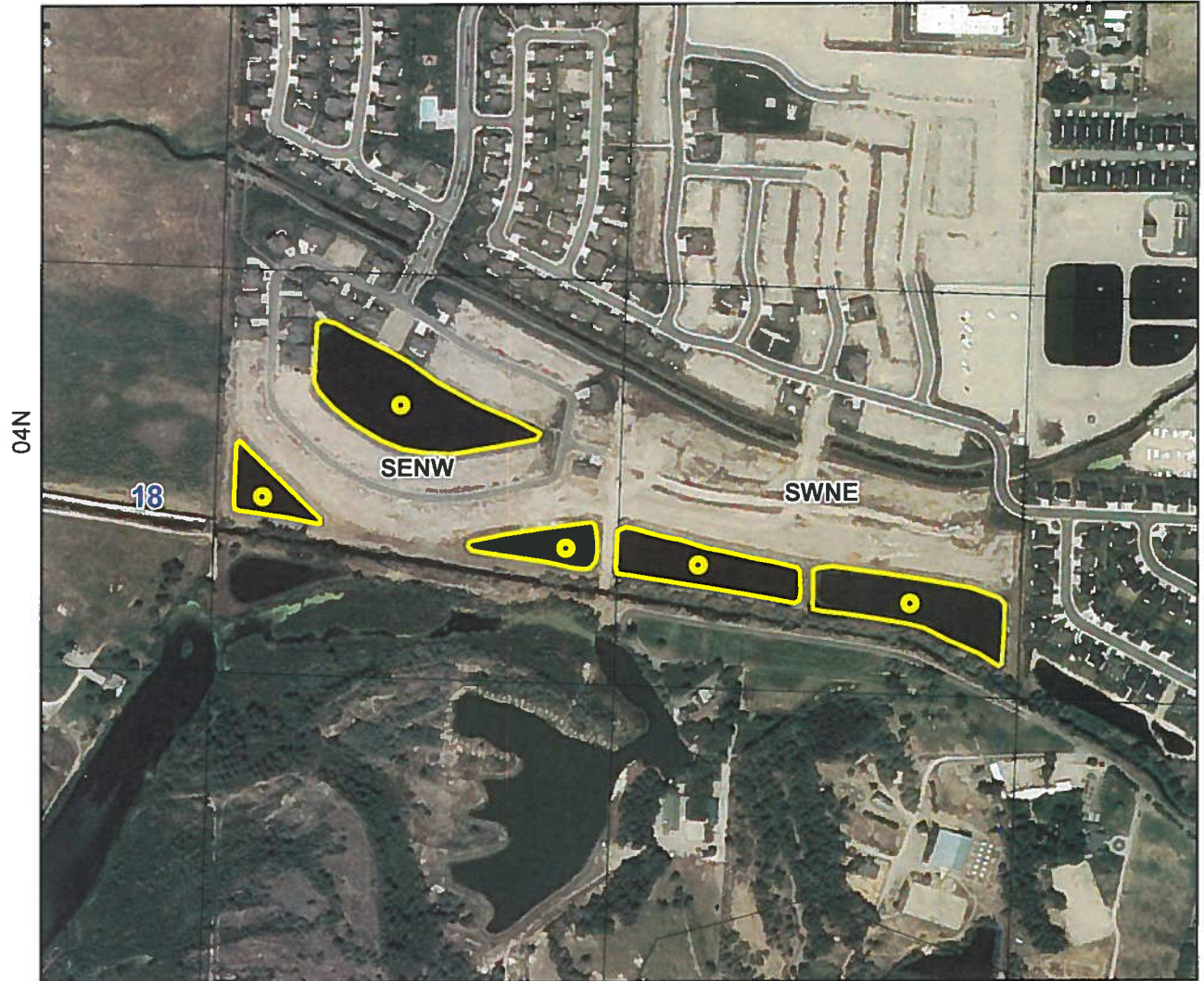
Quarter Quarters



Ada County
IDWR Basin 63

Prepared by Music, Vicky

2009 Aerial Photography



0 0.125 0.25 0.5 Miles

TO STAR
Bridge →
(upstream)

Receipt Details for ID C099534

Status	Adjustment Type	Version
		1

General Information:				
Date Received	Date Deposited	Region	Total Amount	Payment Type
10/20/2014 12:01:56 PM		STATE	\$50.00	Check
Payee:	THE RESERVE AT PINEWOOD LAKES			

Account Information	
Check Number	1579

Comment APPLICATION FOR PERMIT FOR 63-33985

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$50.00	PERMITS	56103	0229	21		1155

✓ \$50 RS-ADVERTISING Fee paid
JL 11/28/2014

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
263978	0001373290	LEGAL NOTICE The following applications	RAYMOND / COOLEY	\$204.28	2	63

Attention: RACHEL SOMMER

IDAHO DEPT WATER RESOURCE/ WEST
2735 AIRPORT WAY
BOISE, ID 837055082

RECEIVED

NOV 20 2014

WATER RESOURCES
WESTERN REGION

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

✓ **63-33799**
STEPHEN RAYMOND
COLEEN COOLEY
3800 ROCK GARDEN LN
BOISE, ID 83714
Point of Diversion: SENE SWNE S5 T04N R02E ADA County Source
GROUND WATER Tributary
Use: DOMESTIC 01/01 to 12/31 0.02 CFS
Use: IRRIGATION 03/01 to 11/15 0.18 CFS
Total Diversion: 0.2 CFS
Date Filed: 6/25/2013
Place of Use: DOMESTIC
T04N R02E S5 SENE
Place of Use: IRRIGATION
T04N R02E S5 SWNE SENE
Total Acres: 8.8
Water bearing zone to be appropriated is from 200 to 500 feet.

✓ **63-33985**
PINEWOOD LAKES RESERVE HOA
PO BOX 388
STAR, ID 83669
(2) Points of Diversion SWNE S18 T04N R01W ADA County Source
GROUND WATER Tributary BOISE RIVER
(3) Points of Diversion SENW S18 T04N R01W ADA County Source
GROUND WATER Tributary BOISE RIVER
Use: AESTHETIC STORAGE 01/01 to 12/31 178 AF
Total Diversion: 178 AF
Date Filed: 8/22/2014
Place of Use: AESTHETIC STORAGE
T04N R01W S18 SWNE SENW

PROPOSED CHANGE OF WATER RIGHT

✓ **Terrie E. and Walter L. Trail** of 5308 E. Trail Rd., King Hill, ID, 83633, filed Application No. 79305 to transfer one water right with a 1965 priority date from the Snake River tributary to the Columbia River totaling 12.0 cfs. The purpose of the transfer is to change the place of use and include it in a permissible place of use totaling 4548 acres. Water will be used at the current place of use approximately 5 miles southeast of Glenns Ferry and south of Pasadena Valley.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 11/24/2014.

The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

Pub. Nov. 6, 13, 2014

0001373290-01

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

Beginning issue of: 11/06/2014

Ending issue of: 11/13/2014

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 13th day of November in the year of 2014 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Heather Harradine
Notary Public FOR Idaho
Residing at: Boise, Idaho

My Commission expires: 2/1/2020

