

AMENDED

4-2-15

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

RECEIVED

APR 02 2015

WATER RESOURCES
WESTERN REGION

1. Name of applicant(s) Wood River Builders LLC. Phone 208 703-0758
Name connector (check one): ☐ and ☐ or ☐ and/or
Mailing address 516 S capital Blvd. City Boise
State Id Zip 83702 Email Davidm@liveinboise.com
2. Source of water supply Ground wather which is a tributary of of boise river
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
04N	01E	13			SW	SW	ada	Ground Water	

4. Water will be used for the following purposes:
Amount 0.05 cfs for IRRIGATION purposes from MAR. 1 to NOV. 15 (both dates inclusive)
(cfs or acre-feet per year)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) 0.05 cubic feet per second (cfs) and/or (b) _____ acre feet per year (af).
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. pipe will be 36 inches in diameter perforated pipe 17.5 feet in ground backfilled with drain rock with a submersible 7hp pumping.
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No
- c. Proposed well diameter is 36 inches; proposed depth of well is 17.5 feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
- e. If well is already drilled, when? 3/3/2015; drilling firm Wood Brothers; well was drilled for (well owner) Wood River Builders; Drilling Permit No. _____
7. Description of proposed uses (if irrigation only, go to item 8):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; complete and attach the [Municipal Water Right Application Checklist](#).
- d. Domestic; show number of households _____
- e. Other; describe fully. _____

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below.
See instructions for standard symbols.

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	13											2.5						2.5

Total number of acres to be irrigated: 2.5

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

none.

Boise Valley Ditch Company use of mitigation water.

10. a. Who owns the property at the point of diversion? WOOD RIVER BUILDERS LLC.
- b. Who owns the land to be irrigated or place of use? WOOD RIVER BUILDERS LLC.
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

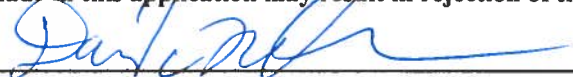
The surface water will be delivered in Lateral 23 of the Boise Valley Irrigation Ditch Company to the N.W corner of the property and flow back in to the Boise River for the use of mitigation. The subdivision will be irrigated by pumping ground water from a location near the N.W corner of the property.

Water bearing zone to mitigation 0-17.5 ft.

Subdivision name is Fairmount Square Subdivision.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.


Signature of Applicant

Signature of Applicant

David Marmillion owner of Wood River Builders LLC.
Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by AB Date 4/2/2015 Time - Preliminary check by AB
* Fee \$ 100. Received by J. STRANGE Receipt No. W042724 Date 1-7-2015

* FEE RECEIVED WITH ORIGINAL APPLICATION.

RECEIVED

APR 02 2015

PROPOSED MITIGATION PLAN FOR WATER RIGHT APPLICATION NO. < 63-34031 IDWR RESOURCES
WESTERN REGION

To the Idaho Department of Water Resources (IDWR):

The Boise Valley Irrigation Ditch Co. ("Company") agrees to provide 2.5 shares under its 1865 Water Right No. 63-31832 to mitigate use of the above referenced application. One share of the Company water right equals 1 inch or 0.02 cfs.¹

The Company agrees to this mitigation plan as follows:

The 2.5 mitigation shares that have irrigated the place of use in Application 63-34031 will continue to be diverted from the Running River by the Company, then diverted into Lateral 23. The mitigation shares will remain unused in Lateral 23 delivery ditch during the rotation time of the right. No one will be authorized to use those shares for any purpose. Those shares will be returned to the Drainage District no.2 at the end of Lateral 23, between Hill Rd Parkway and Sloan on Bogart Lane.

All of the following water rights held by the Company act together to provide water to the Company place of use: 63-147A, 63-147B, 63-147D, 63-2360, 63-31198, 63-31832, 63-31833.

Mitigation will be provided by idling 2.5 acres under all of those rights. To simplify the process, the amount of water for mitigation should be recorded in a single water right, 63-31832, although the reduction in irrigated acres will be recorded in all the Company water rights.

The applicant and any successors in interest for the application place of use will pay the Company for the mitigation shares every year.

IF IDWR approves Application 63-34031 and this mitigation plan, the Company understands IDWR will change the description of the unused shares from irrigation to mitigation for water right 63-31832. This will protect the unused shares from forfeiture according to I. C. §42-223(10).

To the extent development proposed in Application 63-34031 is not developed, the Company understands this process is reversible by contacting IDWR with appropriate information for water and acres set aside for mitigation to be restored to irrigation use.

Signature:

John Patten

Title:

President

Date:

4-2-2015

¹ One inch equals 0.02 cfs.

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JAN 07 2015

WATER RESOURCES
WESTERN REGION

To appropriate the public waters of the State of Idaho

APPLICATION FOR PERMIT

ORIGINAL

1. Name of applicant(s) David Marmillion Phone 208 703-0758
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 516 S. Capital Blvd. City Boise
 State ID Zip 83702 Email davidm@liveinboise.com
2. Source of water supply Ground Water which is a tributary of _____
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
04N	01E	13		SW	SW		Ada	Ground Water	-

4. Water will be used for the following purposes:
 Amount 0.019 cfs for Irrigation purposes from Mar. 1 to Nov. 15 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) 0.019 cubic feet per second (cfs) and/or (b) _____ acre feet per year (af).
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. Pump from 60 feet of perforated pipe buried 18 feet deep.
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.
7. Description of proposed uses (if irrigation only, go to item 8):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; complete and attach the Municipal Water Right Application Checklist.
- d. Domestic; show number of households _____
- e. Other; describe fully. _____

SUPERCEDED BY AMENDED APP RECEIVED 4/2/15. -AG

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

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	13											2.5						2.5

Total number of acres to be irrigated: 2.5

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

10. a. Who owns the property at the point of diversion? Wood River Builders
- b. Who owns the land to be irrigated or place of use? Wood River Builders
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

The surface water right is delivered one day each week. The surface water will be delivered in Lateral 23 of the Boise Valley Irrigation Company to the SE corner of the property. The subdivision will be irrigated by pumping ground water from a location near the SE corner of the property. A berm will be constructed along the entire east property line where the surface water will be conveyed to this berm from the ditch and infiltrate into the ground. The natural grade of the ground at the toe of the berm will allow the surface water to also flow to the north at approximately 0.5% slope. The surface water that does not infiltrate will be discharged to the nw corner of the property to a ditch.

12. Time required for completion of works and application of water to proposed beneficial use is _____ years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by J. Strange Date 1-7-2015 Time 2:50pm Preliminary check by AA

Fee \$ 100.00 Received by J. Strange Receipt No. W042724 Date 1-7-2015

SUPERCEDED BY AMENDED APP RECEIVED 4/2/15. AA

Fairmount Square Subdivision

Wood River Builders

Ground Water use Calculations

Surface Water Right:

7 total shares

1 share is equal to one inch of water covering one acre of land once per week

At 43,560 square feet(sf) per acre one share is 3,630 cubic feet(cf)

$43,560 \text{ sf} \times x = 0.006 \text{ cubic feet per second(cfs)}$

7 shares $\times 0.006 \text{ cfs} = \underline{0.042 \text{ cfs}}$ total

Subdivision Use:

24 Buildable lots and 3 Common lots watering for 6 hours each day

Total irrigated area is 2.49 acres

3.39 gallons per minute(gpm) per irrigated acre

$2.49 \text{ acres} \times 3.39 \text{ gpm} = 8.44 \text{ gpm}$

Total required water rate 8.44 gpm

1 gpm is equal to 0.0022 cfs

$8.44 \text{ gpm} \times 0.0022 \text{ cfs} = \underline{0.019 \text{ cfs}}$

At 0.019 cfs the total water use per week is:

$0.019 \text{ cfs} \times x = 2,872.8 \text{ cf}$

2,872.8 cf is 0.79 shares:

$= 0.79$

Water Rights Transferred:

7 total shares - 0.79 transferred shares = 6.21 remaining shares

The Fairmount Square Subdivision will recharge the ground water with a portion of 6.21 shares of surface water by allowing it to infiltrate against a berm on the east property line at a rate of 8"/hour. Over the 600' long east property line at the toe of the berm with a wetted width of 10', surface water will be discharged into the ground at a rate of 1.11 cfs (0.667'/hour $\times$ 1 hour/60 min. $\times$ 1 min./60 sec. $\times$ 600' $\times$ 10'). The entire 7 shares or 25,410 cf of surface water could be infiltrated within 6.5 hours (25,410 cf / 1.11 cfs $\times$ 1 min./60 sec. $\times$ 1 hour/60min.). One share could be

SUPERCEDED BY AMENDED APP RECEIVED ON 4/2/15. AG

infiltrated within 1 hour. In return the subdivision will pump 0.79 shares of ground water within the subdivision. Therefore there is a surplus of water being discharged into the ground.

SUPERCEDED BY AMENDED APPLICATION RECEIVED ON 4/2/15. *da*

Sommer, Rachel

From: Sommer, Rachel
Sent: Friday, April 10, 2015 12:37 PM
To: 'waterdistrict63@qwestoffice.net'
Subject: 63. Application for Permit
Attachments: Watermaster Recommendation Form.docx; Application No. 63.34031.pdf

April 10, 2015

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR ID 83669-0767

RE: Application for Permit No. 63-34031

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete a recommendation form, and submit your reply, if any, to this office by May 4, 2015.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Rachel Sommer

Administrative Assistant
Dept. of Water Resources
Western Regional Office
2735 Airport Way, Boise ID 83705
Phone 208-334-2190 | Fax 208-334-2348
Email: rachel.sommer@idwr.idaho.gov

Sommer, Rachel

From: Sommer, Rachel
Sent: Thursday, April 09, 2015 3:27 PM
To: 'LEGALS@IDAHOSTATESMAN.COM'
Subject: Ada Legal Ad
Attachments: Ada Cover Letter.docx; Ada Legal Ad.docx

Good Afternoon Janice Hildreth,

Please see the attached ad for publication on 4/16/15 & 4/23/15.

Please confirm these are okay to publish as shown.

Thank you,

April 9, 2015

LEGAL NOTICE DEPARTMENT
IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Application for Permit No's: 63-34022, 63-34031, 63-34032

Dear Legal Notice Department:

Please publish the enclosed legal notice 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 this office before 5/4/2015. Your cooperation is appreciated.

Sincerely,

Rachel Sommer
Administrative Assistant

Enclosures

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

63-34022

PHILIP M KRUEGER
1311 E WARM SPRINGS AVE
BOISE, ID 83712
Point of Diversion NESW S2 T02N R03E ADA County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 12/2/2014
Place of Use: DOMESTIC
T02N R03E S11 L2(NENW)
Water bearing zone to be appropriated is from 28 to 488 feet.

63-34031

WOOD RIVER BUILDERS LLC
516 S CAPITAL BLVD
BOISE, ID 83702
Point of Diversion SWSW S13 T04N R01E ADA County Source GROUND WATER Tributary BOISE RIVER
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.05 CFS
Date Filed: 1/7/2015
Place of Use: IRRIGATION
T04N R01E S13 SWSW
Total Acres: 2.5
Water bearing zone to be appropriated is from 0 to 17.5 feet. Mitigation is proposed for consumptive use.

63-34032

SCS BRIGHTON, LLC
12601 W EXPLORER DR, STE 200
BOISE, ID 83713
Point of Diversion NWNW S14 T03N R01W ADA County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.4 CFS
Total Diversion: 0.4 CFS
Date Filed: 1/27/2015
Place of Use: IRRIGATION
T03N R01W S14 NENW NWNW
Total Acres: 53
Water bearing zone to be appropriated is from 50 to 300 feet. Applicant proposes irrigating 20 acres.

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 right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights/#New_Listings. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application 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 5/4/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 4/16/2015 and 4/23/2015

Grimm, Angie

From: Grimm, Angie
Sent: Thursday, April 02, 2015 1:39 PM
To: 'David Marmillion'; 'bvidc1@gmail.com'
Subject: 63-34031 Application & Mitigation Plan Amendments
Attachments: DOC048.pdf

John & David,

Attached is an edited version of the documents you submitted via email late last/early this week. The edited version attached shows the revisions necessary to each document we discussed over the phone moments ago. Please let me know if either of you have trouble receiving the email attachment or have any remaining questions.

Thanks,
Angie

Angela M. Grimm, P.G.
Water Rights Supervisor
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Wood River Builders LLC. Phone 208 703-0758
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 516 S capital Blvd. City Boise
 State Id Zip 83702 Email Davidm@liveinboise.com
2. Source of water supply GROUND WATER ~~around water~~ which is a tributary of of boise river
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
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4. Water will be used for the following purposes:
 Amount 0.05 ~~0.02~~ cfs for IRRIGATION purposes from MAR.1 to NOV. 15 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
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 - Proposed well diameter is 36 inches; proposed depth of well is 17.5 feet.
 - Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
 - If well is already drilled, when? 3/3/2015; drilling firm Wood Brothers; well was drilled for (well owner) Wood River Builders; Drilling Permit No. _____
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- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; complete and attach the Municipal Water Right Application Checklist.
 - Domestic; show number of households _____
 - Other; describe fully. _____

8. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

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	13											2.5						2.5

Total number of acres to be irrigated: ~~0.02~~ 2.5

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

none.

Boise Valley Ditch Company use of mitigation water.

- Who owns the property at the point of diversion? WOOD RIVER BUILDERS LLC.
- Who owns the land to be irrigated or place of use? WOOD RIVER BUILDERS LLC.
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

The surface water will be delivered in Lateral 23 of the Boise Valley Irrigation Ditch Company to the N.W corner of the property and flow back in to the Boise River for the use of mitigation. The subdivision will be irrigated by pumping ground water from a location near the N.W corner of the property.

Water bearing zone to mitigation 0-17.5 ft.

SUBDIVISION NAME FAIRMOUNT SQUARE SUBDIVISION

- Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
- MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

David Marmillion owner of Wood River Builders LLC.
Signature of Applicant

Signature of Applicant

David Marmillion
Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____
Fee \$ _____ Received by _____ Receipt No. _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR PERMIT
To change the ownership of an application for permit

I, David Marmillion, hereby assign to Wood River Builders LLC,
Current applicant New applicant(s)
of, _____
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Application for Permit No(s): 63-34031
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s):

63-34031, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the application for permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

DO NOT
COMPLETE
THIS
PORTION
OF FORM
SINCE
ENTIRE
APPLICATION
IS ASSIGNED.

~~The land size 49 Acres~~

~~TWP 04N, RGE 01E, SEC 13, SW 1/4, SW 1/4 ADA County~~
~~one share of company water that equals 1 inch~~
~~of 0.02 cfs. from Boise Valley Irrigation Ditch Co.~~

Does the new applicant own the property at the:

Point of diversion?

☒ Yes ☒ No **3 YES**

Place of use?

☒ Yes ☒ No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:

~~Just changing from personal name to company name~~

Dated this 30 day of March, 2015.

David C Marmillion Owner of Wood River Builders LLC.

Signature of current applicant

Title (if applicable)

Signature of current applicant

Title (if applicable)

State of Idaho)

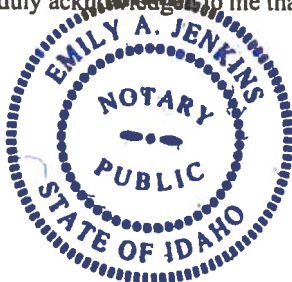
County of Ada)

)ss

On this 30 day of March, 2015, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

WILL NEED
TO HAVE
NOTARIZED
AGAIN
ONCE
MAKE
CORRECTIONS
ABOVE.

SEAL



Emily A. Jenkins
Notary Public

My commission expires: Aug 17, 2015

PROPOSED MITIGATION PLAN FOR WATER RIGHT APPLICATION NO. < 63-34031 >

To the Idaho Department of Water Resources (IDWR):

The Boise Valley Irrigation Ditch Co. ("Company") agrees to provide ^{2.5} shares under its 1865 Water Right No. 63-31832 to mitigate use of the above referenced application. One share of the Company water right equals 1 inch or 0.02 cfs.¹

The Company agrees to this mitigation plan as follows:

The ^{2.5} mitigation shares that have irrigated the place of use in Application 63-34031 will continue to be diverted from the Running River by the Company, then diverted into Lateral 23. The mitigation shares will remain unused in Lateral 23 delivery ditch during the rotation time of the right. No one will be authorized to use those shares for any purpose. Those shares will be returned to the Drainage District no.2 at the end of Lateral 23, between Hill Rd Parkway and Sloan on Bogart Lane.

All of the following water rights held by the Company act together to provide water to the Company place of use: 63-147A, 63-147B, 63-147D, 63-2360, 63-31198, 63-31832, 63-31833.

Mitigation will be provided by idling ^{3.5} acres under all of those rights. To simplify the process, the amount of water for mitigation should be recorded in a single water right, 63-31832, although the reduction in irrigated acres will be recorded in all the Company water rights.

The applicant and any successors in interest for the application place of use will pay the Company for the mitigation shares every year.

IF IDWR approves Application 63-34031 and this mitigation plan, the Company understands IDWR will change the description of the unused shares from irrigation to mitigation for water right 63-31832. This will protect the unused shares from forfeiture according to I. C. §42-223(10).

To the extent development proposed in Application 63-34031 is not developed, the Company understands this process is reversible by contacting IDWR with appropriate information for water and acres set aside for mitigation to be restored to irrigation use.

✕ Signature: _____

✕ Title: _____

✕ Date: _____

¹ One inch equals 0.02 cfs.

Grimm, Angie

From: David Marmillion [davemarmillion@gmail.com] on behalf of David Marmillion [davidm@liveinboise.com]
Sent: Monday, March 30, 2015 12:58 PM
To: Grimm, Angie
Subject: Fwd: Scanned from a Xerox multifunction device
Attachments: Scanned from a Xerox multifunction device.pdf

Hi Angie

Here is a copy of my application...

Thanks :)

David

Begin forwarded message:

From: newcopier@coldwellbankertg.com
Subject: Scanned from a Xerox multifunction device
Date: March 30, 2015 at 12:54:48 PM MDT
To: davidm@liveinboise.com
Reply-To: newcopier@coldwellbankertg.com

Please open the attached document. It was scanned and sent to you using a Xerox multifunction device.

Attachment File Type: pdf, Multi-Page

multifunction device Location: not set

Device Name: 8H870

For more information on Xerox products and solutions, please visit <http://www.xerox.com>

David Marmillion
208 703-0758
Coldwell Banker
davidm@liveinboise.com
www.liveinboise.com

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Wood River Builders LLC. Phone 208 703-0758
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 516 S capital Blvd. City Boise
 State Id Zip 83702 Email Davidm@liveinboise.com
2. Source of water supply around wather which is a tributary of of boise river
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
04N	01E	13		SW	SW		ada	Ground Water	

4. Water will be used for the following purposes:
 Amount 0.02 cfs for IRRIGATION purposes from MAR.1 to NOV. 15 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) 0.02 cubic feet per second (cfs) and/or (b) - acre feet per year (af).
6. Proposed diverting works:
- Describe type and size of devices used to divert water from the source. pipe will be 36 inches in diameter perforated pipe 17.5 feet in ground backfilled with drain rock with a submersible 7hp pumping.
 - Height of storage dam - feet; active reservoir capacity - acre-feet; total reservoir capacity - acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No
 - Proposed well diameter is 36 inches; proposed depth of well is 17.5 feet.
 - Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
 - If well is already drilled, when? 3/3/2015; drilling firm Wood Brothers; well was drilled for (well owner) Wood River Builders; Drilling Permit No. _____.
7. Description of proposed uses (if irrigation only, go to item 8):
- Hydropower; show total feet of head and proposed capacity in kW. -
 - Stockwatering; list number and kind of livestock. -
 - Municipal; complete and attach the Municipal Water Right Application Checklist.
 - Domestic; show number of households -
 - Other; describe fully. -

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below.
See instructions for standard symbols.

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	13											2.5						2.5

Total number of acres to be irrigated: 0.02

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

none.

Boise Valley Ditch Company use of mitigation water.

10. a. Who owns the property at the point of diversion? WOOD RIVER BUILDERS LLC.
- b. Who owns the land to be irrigated or place of use? WOOD RIVER BUILDERS LLC.
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

The surface water will be delivered in Lateral 23 of the Boise Valley Irrigation Ditch Company to the N.W corner of the property and flow back in to the Boise River for the use of mitigation. The subdivision will be irrigated by pumping ground water from a location near the N.W corner of the property.

Water bearing zone to mitigation 0-17.5 ft.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

David Marmillion owner of Wood River Builders LLC.

Signature of Applicant

Signature of Applicant

David Marmillion

Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ _____ Received by _____ Receipt No. _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR PERMIT
To change the ownership of an application for permit

I, David Marmillion, hereby assign to Wood River Builders LLC,
Current applicant New applicant(s)
of, _____
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Application for Permit No(s): 63-34031
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s):

63-34031

, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the application for permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

The land size 49 Acres
TWP 04N, RGE 01E, SEC 13, SW 1/4, SW 1/4 ADA County
one share of company water that equals 1 inch
or 0.02 cfs. From Boise Valley Irrigation Ditch Co.

Does the new applicant own the property at the:

Point of diversion? ☐ Yes ☒ No
Place of use? ☐ Yes ☒ No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:

Just changing from personal name to company name

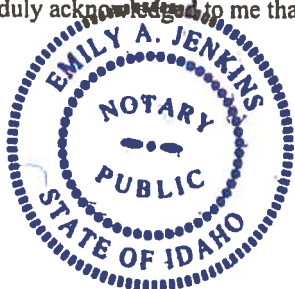
Dated this 30 day of March, 2015.

David Marmillion Owner of Wood River Builders LLC
Signature of current applicant Title (if applicable) Signature of current applicant Title (if applicable)

State of Idaho)
County of Ada)ss

On this 30 day of March, 2015, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL



Emily A. Jenkins
Notary Public
My commission expires: Aug 17, 2015

PROPOSED MITIGATION PLAN FOR WATER RIGHT APPLICATION NO. < 63-34031 >

To the Idaho Department of Water Resources (IDWR):

The Boise Valley Irrigation Ditch Co. ("Company") agrees to provide 7 shares under its 1865 Water Right No. 63-31832 to mitigate use of the above referenced application. One share of the Company water right equals 1 inch or 0.02 cfs.¹

The Company agrees to this mitigation plan as follows:

The 7 mitigation shares that have irrigated the place of use in Application 63-34031 will continue to be diverted from the Running River by the Company, then diverted into Lateral 23. The mitigation shares will remain unused in Lateral 23 delivery ditch during the rotation time of the right. No one will be authorized to use those shares for any purpose. Those shares will be returned to the Drainage District no.2 at the end of Lateral 23, between Hill Rd Parkway and Sloan on Bogart Lane.

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Signature: _____

Title: _____

Date: _____

¹ One inch equals 0.02 cfs.

Grimm, Angie

From: JOHN PATTEN [jwpatten@msn.com]
Sent: Friday, March 27, 2015 3:01 PM
To: Grimm, Angie; David Marmillion
Subject: wood river builders
Attachments: Wood River Builders Mitigation Plan.docx

Angie,

I am sorry it is taking me so long to send this draft mitigation plan to you for Wood River Builders.

If you could review and add comments as to what is needed it would be greatly appreciated.

Thank you

--

John Patten
Patten Tax Service LLC
208/939-1151

-----IRS Circular 230 Notice-----

Any tax advice included in this written or electronic communication was not intended or written to be used, and it cannot be used by the taxpayer, for the purpose of avoiding any penalties that may be imposed on the taxpayer by any governmental taxing authority or agency.

-----Confidentiality Notice-----

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. Any disclosure, copying, or distribution of this message, or the taking of any action based on it, is strictly prohibited.

PROPOSED MITIGATION PLAN FOR WATER RIGHT APPLICATION NO. < 63-34031 >

To the Idaho Department of Water Resources (IDWR):

The Boise Valley Irrigation Ditch Co. ("Company") agrees to provide 7 shares under its 1865 Water Right No. 63-31832 to mitigate use of the above referenced application. One share of the Company water right equals 1 inch or 0.02 cfs.¹

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To the extent development proposed in Application 63-34031 is not developed, the Company understands this process is reversible by contacting IDWR with appropriate information for water and acres set aside for mitigation to be restored to irrigation use.

Signature: _____

Title: _____

Date: _____

¹ One inch equals 0.02 cfs.

Grimm, Angie

From: Grimm, Angie
Sent: Friday, March 06, 2015 2:21 PM
To: 'bvdic1@gmail.com'
Subject: FW: David Marmillion WR Project

From: Grimm, Angie
Sent: Friday, March 06, 2015 9:12 AM
To: 'bvdic1@gmail.com'
Subject: David Marmillion WR Project

John,

Good morning! I received the email below from David Marmillion on Tuesday. I just received another phone call from him moments ago. Based on his email, I'm not 100% sure what "numbers" he thinks you need (Water Right number?, mitigation quantity?, etc.) and don't know for the mitigation plan. I'm more than happy to help you with drafting the mitigation plan, but I'm reluctant to call you when you haven't asked for my help. If I can be of some assistance, please call me at your earliest convenience and I'd be happy to go over any questions you may have.

Thanks,
Angie

Angela M. Grimm, P.G.
Water Resources Agent, Sr.
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

From: David Marmillion [<mailto:davemarmillion@gmail.com>]
Sent: Tuesday, March 03, 2015 1:36 PM
To: Grimm, Angie
Subject: Re: Emailing: Assignment%20of%20Application%20for%20Permit

Hi Angie

It's your new favorite friend:) went to John Patant's office and went through what he needs. Apparently he doesn't know the water right numbers that need to go on the contract/Application. I decided to try to hurry things along for him. Would you mind emailing. The numbers he needs?

Bvdic1@gmail.com

His phone number is 208 939-1151.

Think he may need a little coaching. *

Thank you, you have been fantastic to work with. I honestly wouldn't have gotten this done without you.

Sent from my iPhone

On Mar 3, 2015, at 9:38 AM, Grimm, Angie <Angie.Grimm@idwr.idaho.gov> wrote:

<Assignment%20of%20Application%20for%20Permit.pdf>

Grimm, Angie

From: Grimm, Angie
Sent: Monday, February 23, 2015 1:38 PM
To: 'bvidc1@gmail.com'
Subject: David Marmillion Water Permit App 63-34031
Attachments: 63_34031MarmillionLtr.pdf; Mitigation Plan template.docx

John,

Good afternoon! Per our discussion last Friday, I've attached to this email a copy of the letter mailed to Mr. Marmillion today regarding his water right permit proposal and mitigation requirement he's spoken with you about. Also, I've attached a DRAFT/template for a mitigation plan that maybe helpful when you draft a plan with Mr. Marmillion. Let me know if you have any questions when you look at either document.

Thanks,
Angie

Angela M. Grimm, P.G.
Water Resources Agent, Sr.
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 23, 2015

DAVID MARMILLION
516 S CAPITAL BLVD
BOISE ID 83702

Re: Application for Permit No. 63-34031 – Response to Expedite Request & Amended Application and Additional Information Request

Dear Mr. Marmillion:

The Idaho Department of Water Resources (IDWR) recently received your application for permit seeking use of ground water for irrigation. Following your application submittal, a letter was received requesting IDWR expedite processing of your permit application in hopes of obtaining a final determination on the proposal before April 15, 2015. On January 26, 2015, Mr. Shelley Keen of IDWR sent an email (copy enclosed) stating why expedited processing is not possible at this time for your application while also outlining a few of the items requiring amendment of your application and/or additional information.

To follow up on Mr. Keen's email, I offer this letter to confirm IDWR's Western Regional Office staff cannot expedite processing of your application to the extent a final determination would be made by April 15, 2015 as you requested. Even if the office were fully staffed and able to expedite processing, the process with review and advertising requires approximately three months (if no protests are received), which would put a final determination after your requested time frame. While we regret to tell you we cannot expedite processing of your application to the extent requested, I've completed an initial review of your application and outline the following amendments and additional information necessary to continue processing:

- **Applicant Name & Address** (item no. 1 & item no. 10): Item number 10 of the application indicates the property is owned by Wood River Builders. Ada County tax lot data (9/24/14) indicates the property is owned by North Bogart Land Corporation. Typically, a water right permit would be issued in the name of the property owner whose land the beneficial use is proposed. Please confirm Wood River Builders purchased the property from North Bogart Land Corporation. Also, if you wish to file the application in your personal name, please indicate (on application form item no. 10c) your arrangement enabling you to make the filing on land owned by Wood River Builders and/or North Bogart Land Corporation.
- **Quantity** (item no. 4): As Mr. Keen indicated in his email, based on IDWR policy/standards, the application should be amended to propose a maximum rate of 0.08 cfs or a minimum rate of 0.03 cfs for the irrigation of 2.5 acres. The rate proposed for diversion will likely be dependent upon the rate per acre of the right proposed for mitigation.

- **Time Required for Completion of Works and Application of Water to Proposed Beneficial Use** (item no. 12): A permit application may propose from one to five years to complete the project and make application of water for the proposed beneficial use. This item was left blank on the original application form. The application should be amended to indicate the time required.
- **Signature** (item no. 13): Should the application remain in your name, the signature portion of the application is correct. Should the application be amended to propose a different applicant, but still signed by you, please include your title in relation to applicant.
- **Map** (item no. 13): The plat map submitted with the application indicates the proposed subdivision within which the proposed irrigation will occur is to be named "North Bogart Hills Subdivision". However, the Ground Water Use Calculations attachment indicates the proposed subdivision is to be named "Fairmount Square Subdivision". For general purposes, please confirm the currently proposed subdivision name.
- **Water Bearing Zone and Proposed Use of Shallow Ground Water:** All applications within Basin 63 require publication of the water bearing zone proposed for appropriation. This information was not included on the original application. Based on the proposed diverting works description, it appears your propose diversion of shallow ground water from 0 to 18 ft. If this is correct, please confirm. If this is incorrect, please amend the application to include the correct water bearing zone your propose diversion from.

Your application proposes diversion of ground water less than 200 ft deep in an area where shallow ground water is considered tributary to the Boise River upstream from Star. The Boise River system is fully appropriated regarding new consumptive uses of water upstream from Star. The proposed use is considered consumptive. The application cannot be approved as filed, because water is not available in the system for the proposed use without injuring senior water right owners. The application might be approvable if the consumptive use could be fully mitigated or the application is amended to only propose diversion of ground water deeper than 200 ft. Information included with your application indicates you wish to facilitate infiltration of surface water provided by Boise Valley Irrigation Ditch Company (BVIDC) into the ground, while pumping shallow ground water from a 60 ft pipe buried 18 ft deep for irrigation. As Mr. Keen indicated in his email, this proposal (ground water recharge of BVIDC surface water) is not approvable coming from you; IDWR would need to receive a transfer application from BVIDC proposing to change the nature of use of a portion of their water right(s) to ground water recharge.

I spoke with John Patten, president of BVIDC, briefly on Feb 20, 2015 regarding your project proposal and permit application. He confirmed he's spoken with you regarding your proposal and discussed mitigation options. It appears BVIDC prefers to propose mitigation of your particular project not through a nature of use change transfer application, but rather through a mitigation plan proposing to divert mitigation water from the Boise River, through the BVIDC lateral system, and fully return the mitigation water to the Boise River. Please contact John Patten and pursue a mitigation plan from BVIDC and submit this plan with an amended application. Alternatively, you may amend your application to propose diversion of water from deeper than 200 ft.

Marmillion
February 23, 2015
Page 3 of 3

Please provide an amended application including water bearing zone information and an approvable mitigation plan for application processing to continue. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. **Your response including the requested information, or a request for more time to seek the information, must be received within the next ninety (90) days. The application will be voided without a timely written reply. Refunds are not issued for voided applications.**

IDWR rules, forms, and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela M. Grimm", with a stylized flourish at the end.

Angela M. Grimm, P.G.
Water Resource Agent, Sr.

Enclosure(s): Copy Shelley Keen (IDWR) email 1/26/2015

Cc: John Patten, President Boise Valley Irrigation Ditch Company (via email)

Grimm, Angie

From: Keen, Shelley
Sent: Monday, January 26, 2015 5:06 PM
To: davidm@liveinboise.com
Cc: Grimm, Angie
Subject: Water Right Application

David,

It was a pleasure meeting you last week and hearing about your development plans for North Bogart Hills Subdivision. As we discussed, IDWR's Western Region office has received your application, but the number of applications filed ahead of yours is substantial. Therefore, it will be a considerable time before your application can be processed. The regional office's current estimate is that it may take about six months to have a decision for you, assuming your application is not protested.

Meanwhile, after having briefly looked over the contents of your application, I think there are some items that may need adjustment before the application is processed. First is the requested diversion rate of 0.019 cfs, which equates to about 8.5 gallons per minute. Pumping at that rate would yield about 12,240 gallons per 24-hour period. During the hottest part of the summer, that volume is unlikely to keep 2.5 acres of lawn green in the Treasure Valley, especially if irrigation is not occurring throughout the full 24-hour period. Most irrigation requests for small acreages (less than 5.0 acres) are for 0.03 cfs per acre, or 0.08 cfs for 2.5 acres. (Note that diversion rates on water right applications should be rounded to the nearest hundredth of a cfs.) Applications can be amended by changing and endorsing the original or by substituting a new form.

The second item that may need adjustment is the plan to use the surface water delivered from Boise Valley Irrigation Ditch Co. (BVIDC) for ground water recharge to mitigate for the proposed ground water diversion, which is in an area where IDWR would not normally be able to approve a diversion of ground water from shallower than 200 feet below ground surface. BVIDC's water rights are for irrigation purposes. Diverting a portion of the water right(s) for a different purpose, such as ground water recharge, would require a water right transfer pursuant to Idaho Code § 42-222. It appears that BVIDC has completed similar transfers of parts of Water Right 63-31832 in the past. The transfer would have approved by IDWR before any diversion in connection with the ground water permit, if one is issued, could occur. If it were to be filed soon, it could probably be processed simultaneously with the application for permit.

Finally, a common problem with permits issued in the name of subdivision developers is that all the lots are sold and the developer exits before proof of beneficial use for the permit is due, usually at the end of five years. If the proof statement is not submitted, the permit lapses. IDWR strongly encourages you to incorporate a plan for ensuring that a responsible party will receive and respond to the proof due notice. One suggestion is to assign the permit to a homeowners association once the development is complete. A related issue is that the lots are sometimes sold without reference to the water right. Since water rights are appurtenant to the land, IDWR considers a 'silent' deed to convey a portion of the water right to the new landowner, i.e. the lot owner. This is not an issue while the permit is still in force, because it is personal property. However, when the license replaces the permit, the water right becomes real property. Some developers elect to address this situation by providing in the CCRs or on the deeds for the water right to be retained by the developer or the HOA.

Please call or email if you have additional questions.

Regards,

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov

208-287-4947

RECEIVED

JAN 13 2015

WATER RESOURCES
WESTERN REGION

To: State of Idaho
Department of Water Resources

Receipt No: wo42724

My name is David Marmillion, I filed for an application permit for irrigation on January 7 2015 . We will be starting the subdivision in February. As you know April is when irrigation gets turned on. Our subdivision is located in a very high water table. So it is imperative we get all of our underground in before April 15, 2015. If we do not it becomes very expensive to pump the water. I am asking if you would please expedite my application. If need anything from me. Please don't hesitate to call.

David Marmillion,
Wood River Builders LLC.
208 703-0758
Davidm@liveinboise.com

Thank you for considering

Grimm, Angie

From: Keen, Shelley
Sent: Monday, January 26, 2015 5:06 PM
To: davidm@liveinboise.com
Cc: Grimm, Angie
Subject: Water Right Application

David,

It was a pleasure meeting you last week and hearing about your development plans for North Bogart Hills Subdivision. As we discussed, IDWR's Western Region office has received your application, but the number of applications filed ahead of yours is substantial. Therefore, it will be a considerable time before your application can be processed. The regional office's current estimate is that it may take about six months to have a decision for you, assuming your application is not protested.

Meanwhile, after having briefly looked over the contents of your application, I think there are some items that may need adjustment before the application is processed. First is the requested diversion rate of 0.019 cfs, which equates to about 8.5 gallons per minute. Pumping at that rate would yield about 12,240 gallons per 24-hour period. During the hottest part of the summer, that volume is unlikely to keep 2.5 acres of lawn green in the Treasure Valley, especially if irrigation is not occurring throughout the full 24-hour period. Most irrigation requests for small acreages (less than 5.0 acres) are for 0.03 cfs per acre, or 0.08 cfs for 2.5 acres. (Note that diversion rates on water right applications should be rounded to the nearest hundredth of a cfs.) Applications can be amended by changing and endorsing the original or by substituting a new form.

The second item that may need adjustment is the plan to use the surface water delivered from Boise Valley Irrigation Ditch Co. (BVIDC) for ground water recharge to mitigate for the proposed ground water diversion, which is in an area where IDWR would not normally be able to approve a diversion of ground water from shallower than 200 feet below ground surface. BVIDC's water rights are for irrigation purposes. Diverting a portion of the water right(s) for a different purpose, such as ground water recharge, would require a water right transfer pursuant to Idaho Code § 42-222. It appears that BVIDC has completed similar transfers of parts of Water Right 63-31832 in the past. The transfer would have approved by IDWR before any diversion in connection with the ground water permit, if one is issued, could occur. If it were to be filed soon, it could probably be processed simultaneously with the application for permit.

Finally, a common problem with permits issued in the name of subdivision developers is that all the lots are sold and the developer exits before proof of beneficial use for the permit is due, usually at the end of five years. If the proof statement is not submitted, the permit lapses. IDWR strongly encourages you to incorporate a plan for ensuring that a responsible party will receive and respond to the proof due notice. One suggestion is to assign the permit to a homeowners association once the development is complete. A related issue is that the lots are sometimes sold without reference to the water right. Since water rights are appurtenant to the land, IDWR considers a 'silent' deed to convey a portion of the water right to the new landowner, i.e. the lot owner. This is not an issue while the permit is still in force, because it is personal property. However, when the license replaces the permit, the water right becomes real property. Some developers elect to address this situation by providing in the CCRs or on the deeds for the water right to be retained by the developer or the HOA.

Please call or email if you have additional questions.

Regards,

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov

208-287-4947