



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

July 26, 2013

CASTLE ROCK DEVELOPMENT INC
1017 S ARBOR ISLAND WAY
EAGLE ID 83616

RE: License No. 63-31606

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license. Also enclosed is an order that reinstates this permit, since proof was submitted after the proof deadline. Please note that the priority date for this permit has been advanced to April 7, 2003, as provided in section 42-218a(2), Idaho Code.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4916.

Sincerely,

Craig L. Saxton
Water Rights Supervisor

Enclosure(s)

cc: HYDRO LOGIC INC

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2013, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

63-31606

**CASTLE ROCK DEVELOPMENT INC
1017 S ARBOR ISLAND WAY
EAGLE ID 83616**

**HYDRO LOGIC INC
C/O ED SQUIRES
1002 W FRANKLIN ST
BOISE ID 83702**

A handwritten signature in cursive script, reading "Darla Block", is written over a horizontal line.

**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-31606

Priority: April 07, 2003

Maximum Diversion Rate: 0.30 CFS

It is hereby certified that CASTLE ROCK DEVELOPMENT INC
1017 S ARBOR ISLAND WAY
EAGLE ID 83616 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated December 23, 2002; and has submitted Proof of
Beneficial Use on July 05, 2013. An examination confirms water is diverted from:

SOURCE

GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE

DOMESTIC

PERIOD OF USE

01/01 to 12/31

DIVERSION RATE

0.30 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4NE1/4 Sec. 15, Twp 04N, Rge 01W, B.M. ADA County

PLACE OF USE: DOMESTIC

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	01W	15		X		X										X			L 2

CONDITIONS OF APPROVAL

1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
2. The irrigation occurring under this domestic use shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed. This right does not provide for irrigation of common areas or for irrigation of lots upon which homes have not been constructed.
3. Domestic use is for 10 homes.
4. Point of diversion is located within Block 1, Lot 18, Rivervine Subdivision.
5. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.

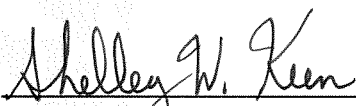
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-31606

6. Place of use is located within Block 1, Lots 3, 6, 7, 10, 13, 17, 19, 20, 21, and 22 in Rivervine Subdivision.
7. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water for irrigation under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
8. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used for irrigation purposes without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
9. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 26th day of July, 2013.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Water Right License

63-31606

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

01W



● Point of Diversion

Place Of Use Boundary

Townships

PLS Sections

Quarter Quarters

0 0.05 0.1 0.2 Miles



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

IN THE MATTER OF LAPSED PERMIT	)	REINSTATEMENT
NO. 63-31606 IN THE NAME OF	)	ORDER
CASTLE ROCK DEVELOPMENT INC.	)	
_____	)	

This matter having come before the Idaho Department of Water Resources (“Department”), the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On April 25, 2003, the Department issued Permit No. 63-31606 (permit) in the name of Castle Rock Development Inc. (“permit holder”). The permit authorizes the diversion of 0.36 cubic feet per second (“cfs”) of ground water for domestic use for 18 homes, including lawn irrigation not to exceed ½ acre for each subdivision lot which a home has been constructed. The place of use for the permit is in the NE quarter and the NWSE of Section 15, Township 04 North, Range 01 West, Ada County. A condition of permit approval required the permit holder to submit proof of beneficial use of water (“proof”) to the Department on or before May 01, 2008.
2. On February 29, 2008, the Department notified the permit holder and its consultant Hydro Logic Inc., that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit either proof of beneficial use or request an extension of time. The notice was mailed to the address on record, 1639 Lakemoor Way, Eagle, Idaho 83616. The notice to the permit holder was returned undeliverable on July 07, 2008.
3. On May 09, 2008, the Department notified the permit holder and its consultant, Hydro Logic Inc., that the permit had lapsed. The notice was mailed to 1017 S. Arbor Island Way, Eagle, Idaho 83616.
4. On June 16, 2008, the Department received a request for extension of time from Ed Squires of Hydro Logic Inc.
5. On June 23, 2008, the Department issued an order granting the request for extension of time with the priority date advanced to February 07, 2003. The order also extended the time within which to submit proof of beneficial use to May 01, 2013. The order was mailed to 1639 Lakemoor Way, Eagle, Idaho 83616. The notice to the permit holder was returned undeliverable on June 27, 2008.
6. On February 28, 2013, the Department notified the permit holder and its consultant, Hydro Logic Inc., that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit either proof of beneficial use or request an extension of time. The notice was

mailed to 1017 S Arbor Way, Eagle, Idaho 83616.

7. On May 08, 2013, the Department issued the permit holder a lapse notice because it had not received an acceptable proof statement or extension request.

8. On July 05, 2013, the Department received a proof of beneficial use statement with a request for reinstatement of the permit and evidence of the beneficial use of water during the authorized development period of the permit.

9. The proof of beneficial use statement was received on July 05, 2013, or fifty-nine (59) days after the May 08, 2013 notice of lapsing.

CONCLUSIONS OF LAW

1. Idaho Code § 42-218a.2 provides as follows:

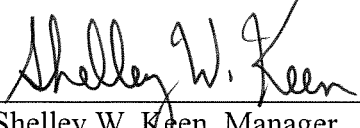
That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time previously approved. Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause for filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received;

2. The permit holder has provided a reasonable showing why the permit should be reinstated, by submitting acceptable proof of beneficial use on July 5, 2013, and evidence that beneficial use of the water occurred during the period when the permit was active. The Department should reinstate the permit with the priority advanced 59 days to April 7, 2003.

ORDER

IT IS HEREBY ORDERED, that Permit No. 63-31606, in the name of Castle Rock Development Inc. is **REINSTATED**, with the priority advanced to April 7, 2003.

Dated this 26th day of July, 2013.



Shelley W. Keen, Manager
Water Rights Section