

63-32550

RECEIVED

SEP 04 2009

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

AMENDED

1. Name of applicant(s)

Providence Development Group LLC

Phone (208) 433-8800

Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address: 701 S. Allen St Ste 103 City MERIDIAN

State ID Zip 83642 Email: Lbartkowski@hubblehomes.com

2. Source of water supply Ground Water which is a tributary 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 #
4N	2W	7	2		NW	SE	CANYON	AS ABOVE	2 points of diversion
			3		NE	SW	CANYON	AS ABOVE	4 points of diversion

4. Water will be used for the following purposes:

Amount 183 for Aesthetic Storage purposes from 1/1 to 12/31 (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) _____ cubic feet per second (cfs) and/or (b) 183 acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Excavate Six(6) Ponds From 0.17 to 0.73 Acres in size and depths to 12-ft total area = 12.9 acres

b. Height of storage dam 0 feet; active reservoir capacity 134 acre-feet; total reservoir capacity 134 acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12.

c. Proposed well diameter is N/A inches; proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85°F being sought? NO

e. If well is already drilled, when? _____; drilling firm _____;

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality or the applicant's qualifications as a municipal provider. _____

d. Domestic; show number of households. _____

e. Other; describe fully. Aesthetic ponds as amenities to residential development - Middleton Lakes LLC

9. 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	
4N	2W	7									J			J		J			
											L3			L3		L2			

Total number of acres to be irrigated: NA

10. 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

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

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. There are a total of six (6) ponds excavated into the ground water bearing zones from 0 depth to 12 feet of depth.

Applicant seeks water for capacity of ponds (134 Af) plus evaporation losses due to natural refills from high water tables (49 Af per attached), total 183 Af to fill/maintain 6 ponds covering about 13 acre

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" 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
Lori Bartkowski - Land Development
 Print Name (and title, if applicable) Coordinator

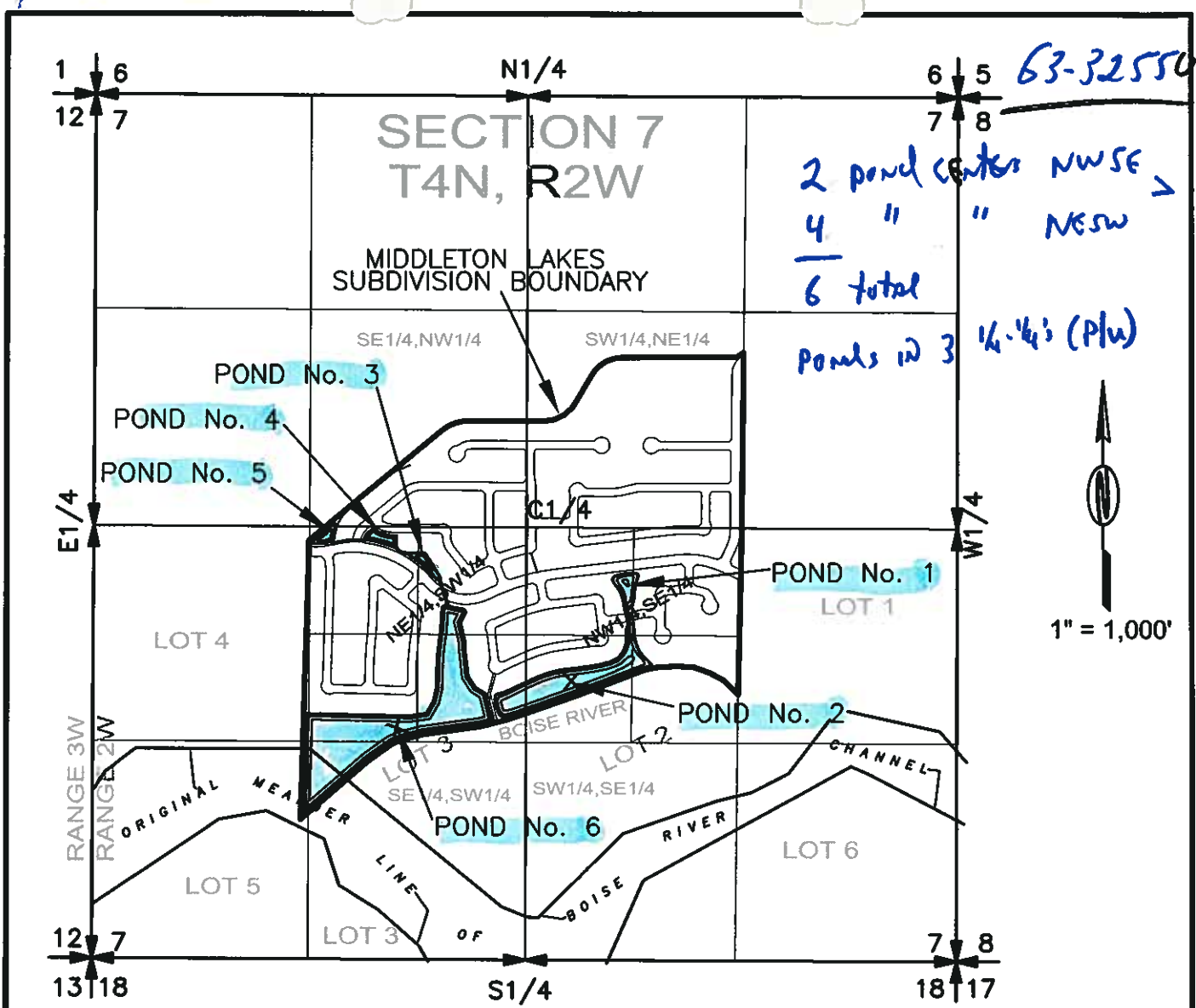
 Signature of Applicant

 Print Name (and title, if applicable)

Received by SL Date 9/4/09 For Department Use: Time 10:00 Preliminary check by SL

addnl Fee \$ 40.00 Receipted by [Signature] Receipt No. W037856 Date 9-4-09
+ \$250 c original Appl,
total \$290

~~Page 6 of 14~~



POND DATA

POND No.	LOCATION POINTS OF DIVERSION POINTS OF USE 1/4SEC, 1/4SEC, 1/4SEC	SURFACE AREA (ACRES)	VOLUME (ACRES-FEET)	AVE. DEPTH (FEET)
1	NW,NW,SE (GOV. LOT 2)	0.43	3.02	7.0
2	SW,NW,SE (GOV. LOT 2)	3.16	32.54	10.3
3	NE,NE,SW (GOV. LOT 3)	0.19	1.04	5.5
4	NW,NE,SW (GOV. LOT 3)	0.24	1.40	5.9
5	NW,NE,SW (GOV. LOT 3)	0.17	0.95	5.7
6	SW,NE,SW (GOV. LOT 3)	8.73	95.04	10.9
TOTALS		12.91	133.98	

CADD A1-R3 © STANLEY CONSULTANTS

REVISIONS

WATER RIGHT APPLICATION EXHIBIT FOR
PROVIDENCE DEVELOPMENT GROUP, LLC
PERMIT FOR AETHETIC STORAGE FOR SIX
PONDS IN MIDDLETON LAKES SUBDIVISION
IN SECTION 7
T.4 N., R.2 W., B.M.
CITY OF MIDDLETON, ADA COUNTY, IDAHO



Stanley Consultants INC.
1940 S. BONITO WAY
SUITE 140
MERIDIAN, IDAHO 83642
208-288-0573

POND EVAPORATION MAP

Estimate AF lost to evaporation

Data

Pond surface area - acres
Inches/year evap - best fit from map
Convert inches of loss/year to feet
AF loss = feet x acres

Example

Pond covers 5 acres in nw Ada County
Average depth = 10 ft
Pond capacity = 5 ac x 10 ft = 50 AF
Inches of loss/year = 42 (between 40 & 45)
AF loss = $(42/12) \times 5 = 17.5$ AF

WR COVERAGE NEEDED = CAPACITY + LOSS
Need 50 + 17.5 = 67.5 AF

http://snow.ag.uidaho.edu/publications/pond_evap/pond.htm

(see map under "example of use", item #1)

site

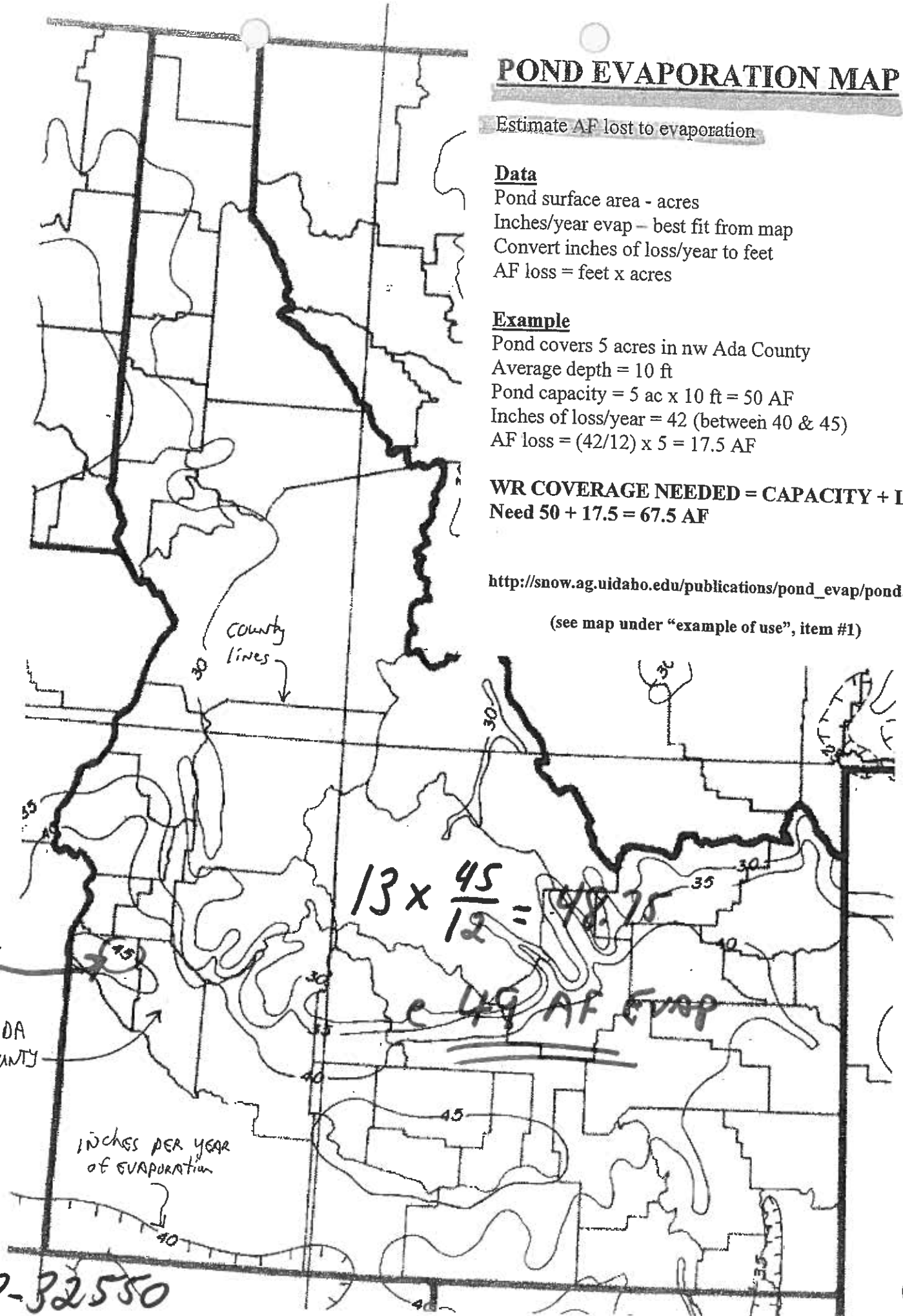
ADA
COUNTY

INCHES PER YEAR
OF EVAPORATION

63-32550

$$13 \times \frac{45}{12} = 48.75$$

49 AF EVAP



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

IN THE MATTER OF APPLICATION)	
FOR PERMIT #63-32550 IN THE)	PRELIMINARY ORDER
NAME OF PROVIDENCE)	VOIDING APPLICATION
DEVELOPMENT GROUP LLC)	
_____)	

FINDINGS OF FACT

1. On September 27, 2006, Stanley Consultants Inc. filed an application for permit with the Idaho Department of Water Resources (IDWR). This application was filed on behalf of Providence Development Group LLC.
2. On May 1, 2008, IDWR sent a letter to Dean Cardwell of Stanley Consultants Inc., requesting additional information. A thirty (30) day deadline from the date of the letter was set.
3. On May 9, 2008, the letter was returned to IDWR as undeliverable. The letter was resent to the new address provided by the post office; therefore extending the deadline to June 16, 2008.
4. On May 21, 2008, IDWR received a letter from Mr. Cardwell, requesting an extension of time for providing the necessary information. The request was for one (1) year.
5. On May 23, 2008, IDWR sent Mr. Cardwell a letter, granting the extension of time. The new deadline for submitting the necessary information was set for May 1, 2009.
6. On June 5, 2009, IDWR sent Mr. Cardwell another letter, inquiring the status of the application, and how they planned to proceed.

To date, IDWR has received no response from Stanley Consultants Inc.

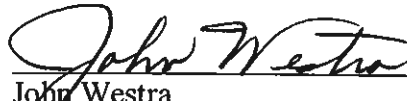
CONCLUSIONS OF LAW

1. Idaho Code (IC)§ 42-204 and the Rules and Regulations of IDWR state that if an applicant does not submit requested information to IDWR within the allotted time given, IDWR may void the application.
2. Stanley Consultants Inc. &/or Providence Development Group LLC failed or refused to provide IDWR the requested information. The application should be voided.

ORDER

IT IS HEREBY ORDERED that Application for Permit #63-32550 in the name of Providence Development Group LLC be VOIDED.

Dated this 27th day of August, 2009


John Westra
Manager, Western Regional Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of August, 2009, I mailed a true and correct copy, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:


Denise Buffington
Administrative Assistant

PROVIDENCE DEVELOPMENT GROUP LLC
C/O STANLEY CONSULTANTS INC
ATTN: DEAN CARDWELL
2264 S BONITO WAY, STE 150
MERIDIAN ID 83642

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

SEP 27 2006

To appropriate the public waters of the State of Idaho

WATER RESOURCES
WESTERN REGION

1. Name of Applicant PROVIDENCE DEVELOPMENT GROUP, LLC Phone (208) 322-8992
Mailing address 701 S. ALLEN ST., SUITE 103, MERIDIAN, ID 83642
2. Source of water supply GROUND WATER which is a tributary of _____
3. Location of point of diversion is Township 4N Range 2W Sec. 7 in the NW $\frac{1}{4}$,
NW $\frac{1}{4}$, SE $\frac{1}{4}$, Govt. Lot 2, B.M., CANYON County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

- Amount 134 for AESTHETIC STORAGE purposes from JAN 1 to DEC 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) _____ and/or (b) 134
cubic feet per second acre feet per annum

6. Proposed diverting works:

- * a. Describe type and size of devices used to divert water from the source EXCAVATE SIX (6) PONDS
FROM 0.17 TO 8.73 ACRES IN SIZE AND DEPTHS TO 12- FEET. TOTAL AREA=12.9 ACRES
b. Height of storage dam N/A feet; active reservoir capacity 134 acre-feet; total
reservoir capacity 134 acre-feet
c. Proposed well diameter is N/A inches; proposed depth of well is N/A feet
d. Is ground water with a temperature of greater than 85°F being sought? No
e. If well is already drilled, when? N/A; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in kW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. AESTHETIC PONDS AS AMENITIES TO RESIDENTIAL
DEVELOPMENT

* SEE ATTACHED EXHIBIT

— Supersealed —

RECEIVED

APR 14 2009

WATER RESOURCES
WESTERN REGION

2:13PM jmk

void is now RESCINDED
PER 9/4/09 Amended Appl.

-82

→

VOID

3. 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	
4N	2W	7									J					J			

Total number of acres to be irrigated N/A

10. Describe any other water rights used for the same purposes as described above. NONE

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

12. Remarks: THERE ARE A TOTAL OF SIX(6) PONDS EXCAVATED INTO THE GROUND WATER BEARING ZONES FROM 0 DEPTH TO 12 FEET OF DEPTH.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" 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.)

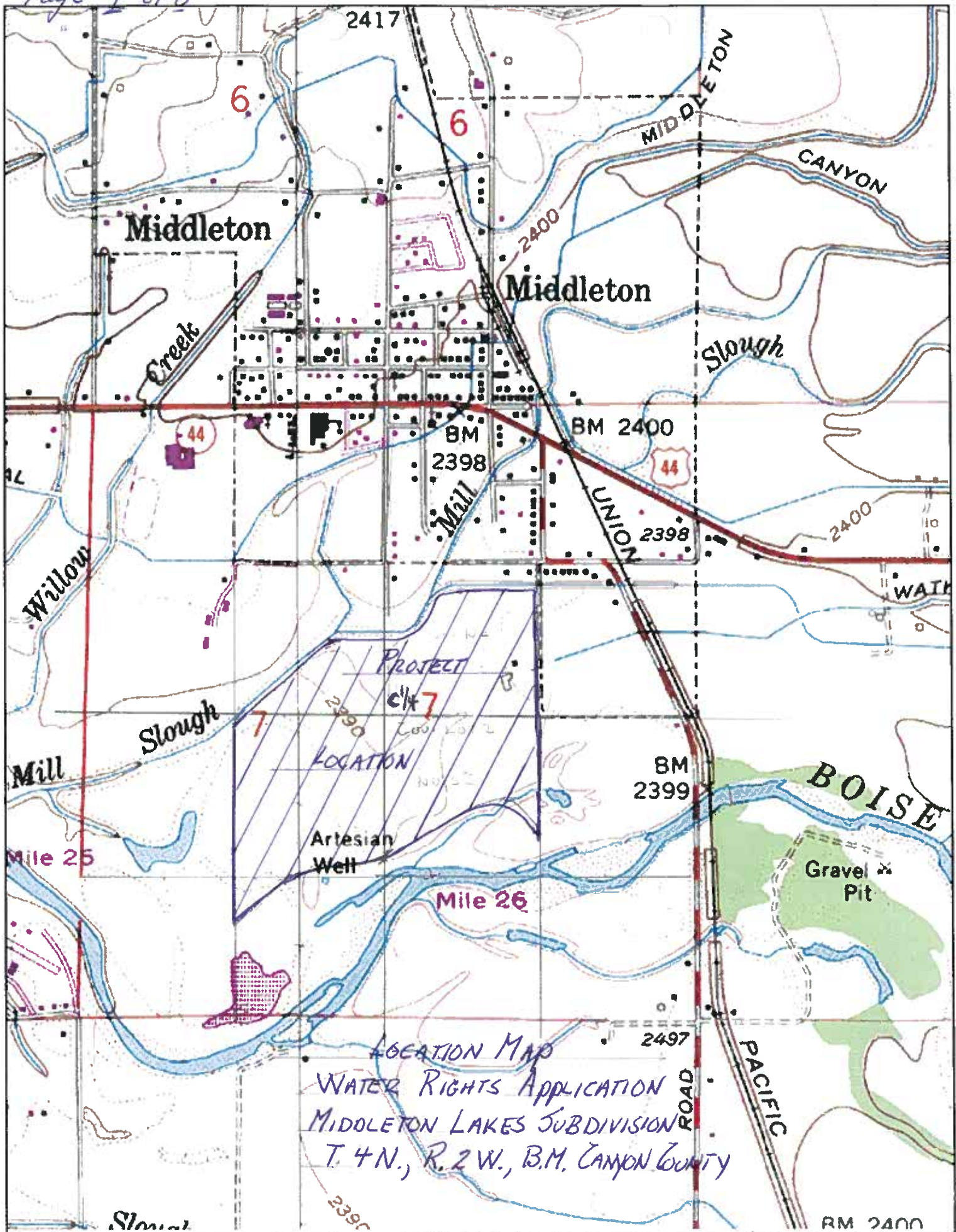
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Justin Huffle Development LLC
 Signature of Applicant (and title, if applicable)

Received by lgagmm Date 9-27-06 Time 8:11 am Preliminary check by _____
 Fee \$ 250 Received by lgagmm # W034730 Date 9-27-06
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____

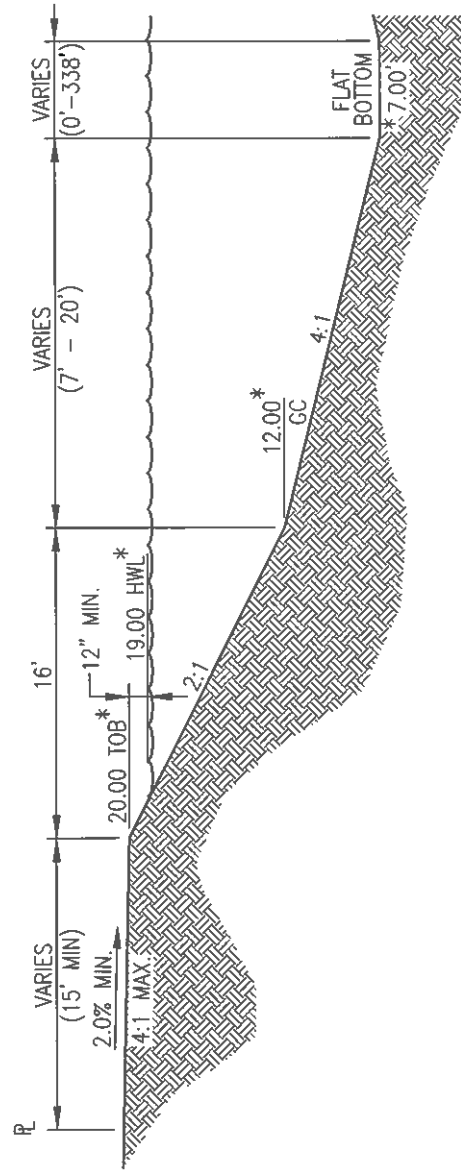


63-32550



WATER RIGHTS APPLICATION
 FOR: PROVIDENCE DEVELOPMENT GROUP, LLC
 FOR AESTHETIC STORAGE IN SIX POND AT
 MIDDLETON LAKES SUBDIVISION - MIDDLETON, ID

TYPICAL POND CROSS SECTION



NOTE:
 HIGH WATER LINE (HWL) IN THIS POND
 IS EQUAL TO THE APPROX. SEASONAL
 HIGH WATER ELEVATION PLUS
 100-YEAR STORM WATER STORAGE.
 SEE ABOVE FOR ACTUAL ELEVATIONS.

* ELEVATIONS SHOWN ARE RELATIVE
 TO THE TOP OF BANK. SEE ABOVE
 FOR ACTUAL ELEVATIONS AND GRADE
 CHANGES.

POND SIDE SLOPE SECTION

SCALE: NTS

AERIAL SITE MAP - MIDDLETON LAKES SUBDIVISION
EXHIBIT FOR STORAGE WATER RIGHTS FOR PONDS
APPLICATION BY PROVIDENCE DEVELOPMENT GROUP LLC



DATE OF PHOTOGRAPHY - JUNE 2005

STOCK CERTIFICATE

Canyon County Water Company, Limited

INCORPORATED UNDER THE LAWS OF THE STATE OF IDAHO

Cert. No 1616

Total Number of Shares, 4000

TOTAL PAR VALUE OF CAPITAL STOCK, \$40,000

96.3 Shares

This Certifies, That Rainbow Development Corp. LLC

is the owner of Ninety six point three

shares

of the Capital Stock of the CANYON COUNTY WATER COMPANY, Ltd., for and appurtenant to one

of land located in Government Lots 2 and 3, and the Southeast Quarter

of the Northwest Quarter of Section 4, Township 4 North, Range 2 West, B. M. Meridian

Canyon County, Idaho

transferable on the books of the Company upon surrender of this Certificate properly endorsed and cancelled in compliance with the By-Laws of the Company.

IN WITNESS WHEREOF, The President and Secretary have hereunto subscribed their names and affixed the seal of the Company at its office this 11 day of

[SEAL]

Boise, Idaho, A. D., 19 2004

Robert S. Scott

Secretary.

James P. H. H. H.

President.

Buffington, Denise

From: Buffington, Denise
Sent: Thursday, September 24, 2009 9:40 AM
To: 'legals@idahopress.com'
Subject: Legal Notice (Canyon)
Attachments: Canyon County - Cover Letter.doc; 63-32550 Ad.doc

Attached please find (1) legal notice being submitted for publication. If you have any questions or are not able to run the notice on the dates requested, please contact me immediately.

Thank you in advance,

Denise Buffington
Administrative Assistant
Dept of Water Resources
Western Region

9/24/2009

September 24, 2009

LEGAL NOTICE DEPARTMENT

PRESS-TRIBUNE
PO BOX 9399
NAMPA, ID 83652

RE: Application For Permit No(s): 63-32550

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 10/19/2009. Your cooperation is appreciated.

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure(s)

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-32550

PROVIDENCE DEVELOPMENT GROUP, LLC
701 S ALLEN ST STE 103
MERIDIAN, ID 83642

Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L2 (NWSE)	S7	T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L2 (NWSE)	S7	T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source GROUND WATER

Use: AESTHETIC STORAGE	01/01 to 12/31	183 AF
	Total Diversion:	183 AF

Date Filed: 9/27/2006

Place Of Use: AESTHETIC STORAGE
T04N R02W S7 L3 (NESW) L3 (SESW) L2 (NWSE)

Water bearing zone to be appropriated is from 1 to 12 feet for 6 shallow ground water ponds near the Boise River. Use is for water amenities at Middleton Lakes Subdivision.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 10/19/2009. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 10/1/2009 and 10/8/2009

Buffington, Denise

From: Buffington, Denise
Sent: Thursday, September 24, 2009 10:23 AM
To: 'Water District 63'
Subject: Comment letter - 63-32550
Attachments: 63-32550 Comment Letter to WD63.doc; 63-32550 APP.pdf

Please review the attached information and comment as necessary. Please do not hesitate to contact our office if you have any questions regarding the attached information. Also, we are in the process of converting to a new computer system. Please let me know if you do not receive all of the information referenced.

Thank You,

Denise Buffington
Administrative Assistant
Dept of Water Resources
Western Region

9/24/2009

September 24, 2009

REX BARRIE, WD63 WATERMASTER
PO BOX 767
10769 W STATE ST
STAR, ID 83669-0767

RE: Application for Permit: 63-32550

Dear Watermaster:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered during regional review. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

However, possible approval of the application will include conditions of approval about standard controls for uses in your water district (lockable, measureable diversion works, etc.).

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure(s)

State of Idaho
Department of Water Resources
Application for Permit
RECOMMENDATION FORM

Application for Permit: 63-32550

Applicant's Name: Providence Development Group LLC

Watermaster's Recommendation:

- a) _____ I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
-
-
-
- c) _____ I oppose approval of this application for the following reasons:
-
-
-
-
-
- d) _____ Additional comments:

Dated this _____ day of _____, 2009.

Watermaster's Signature
Water District No. 63

Printed Name

Lester, Steve

From: Cardwell, Dean [CardwellDean@stanleygroup.com]
Sent: Thursday, September 03, 2009 7:26 AM
To: Lester, Steve
Subject: Providence Development Transfer Application for Permit 63-32550

Steve,

I am in receipt of the latest letter from the IDWR dated 27 August 2009 regarding the preliminary order for voiding the current applications. However, due to contractual obligations being met between my company and the developer, I am not longer the representative for the developer on this matter. It is my understanding that the developer, Providence Development Group (aka Hubble Homes), intends to represent themselves from this point forward. I have, therefore, forwarded all correspondence to the developer on this matter and my understanding is that the new contact person with this group is Lori Bartkowski; she may have already contacted you regarding this. I would request that all future correspondence be sent to her directly.

I appreciate your assistance during the past several month as you and I have worked together on this and look forward to doing so again when the development market conditions permit it.

Dean Cardwell, *Senior Designer*

Stanley Consultants, Inc.

2264 S. Bonito Way, Suite 150

Meridian, ID 83642

P: (208) 855-5600 D: (208) 855-5615

F: (208) 855-5656 M: (208) 830-5237

9/4/2009

Lester, Steve

From: Lester, Steve
Sent: Tuesday, September 01, 2009 3:17 PM
To: 'Lori Bartkowski'
Subject: RE: Preliminary Order, Application 63-32550
Attachments: 63-32550 revisions.pdf

Lori:

The voided application can be rescued as we discussed earlier today. My 6/5/09 letter (in your prior email) summarized the main ideas needing attention. Attached is a suggested revision of the application - revisions are in **red**. The idea here is that the capacity of the ponds (134 acre-feet) plus the natural refill that occurs from shallow ground water (49 acre-feet) during warm months when water evaporates from the ponds surface (so ponds stay more or less full without actively putting water from elsewhere into the ponds) will be the total amount of the new water right being applied for (183 acre-feet).

We can meet to discuss the details or - if you are comfortable with the details - you can prepare an amended application using the attached draft as a guide. It's easy to get lost in the details/jargon, adding lots more time to getting this resolved - so experience suggests it's probably best if we meet first to be sure everything is clear before proceeding.

The best outcome is for an amended application to be submitted with the additional \$40 fee by Sept. 12 to remain within the 14-day period of the preliminary order. That way there is no doubt the applicant made a complete & timely response to the preliminary order. Then we could rescind the order and process the amended application without further delay. Please be aware that a protracted process is not envisioned in responding to a preliminary order - that route pretty much guarantees the application will remain forever void, forcing the applicant to start all over again.

Please let me know how you want to proceed. Thank you for your follow up on this.

Steve Lester
 Water Rights Supervisor
 IDWR Western Region

tel. 334-2190

From: Lori Bartkowski [mailto:lbartkowski@hubblehomes.com]
Sent: Tuesday, September 01, 2009 8:33 AM
To: Lester, Steve; Westra, John
Subject: Preliminary Order
Importance: High

Hello –

As I e-mailed Steve yesterday, I was given this issue yesterday regarding a “preliminary order” in the matter of Application for Permit No. 63-32550. I am unfamiliar with this issue but I am gathering from this correspondence that I need to petition for reconsideration and I am not sure how to go about doing this.

I would really appreciate it if someone could get back to me and help me with this situation so as not to have our

9/1/2009

Application voided.

Sincerely,

Lori Bartkowski
Special Projects Coordinator – Providence Development Group
(208) 695-2021

Lester, Steve

From: Lori Bartkowski [lbartkowski@hubblehomes.com]
Sent: Tuesday, September 01, 2009 8:33 AM
To: Lester, Steve; Westra, John
Subject: Preliminary Order
Importance: High

Hello –

As I e-mailed Steve yesterday, I was given this issue yesterday regarding a “preliminary order” in the matter of Application for Permit No. 63-32550. I am unfamiliar with this issue but I am gathering from this correspondence that I need to petition for reconsideration and I am not sure how to go about doing this.

I would really appreciate it if someone could get back to me and help me with this situation so as not to have our Application voided.

Sincerely,

Lori Bartkowski
Special Projects Coordinator – Providence Development Group
(208) 695-2021

PER tel. call w/ Lori today -

Her messages + proposed meeting I suggested
constitute timely response to void order -
Remains void until we can receive
Amended Appl. (see my 8/5/09 letter). If
goes ok, can rescind order & process
Amended Appl.

I will send her the necessary info, we can
meet/discuss, she can get Appl. Amended.

-JL 9/1/09

9/1/2009

Lester, Steve

From: Lori Bartkowski [lbartkowski@hubblehomes.com]
Sent: Monday, August 31, 2009 2:07 PM
To: Lester, Steve
Subject: Providence Development Pond Project
Importance: High
Attachments: 09_0414-Email-IDWR-SteveLester.pdf; 09_0609-Letter-IDWR-SteveLester.pdf

Hi Steve –

I was forwarded this project and correspondence from Stanley Consultants regarding water right Applications for pond project near Middleton. I am new and am obviously coming into this situation late in the game. I am not sure where this was left off and what exactly needs to be done. I am hoping that you can shed some light on this issue and let me know what you need from me, if anything. Also, if you are no longer the one in charge of this issue, can you please forward me to the appropriate person in charge?

Sincerely,

Lori Bartkowski
Special Projects Coordinator - Hubble Homes
(208) 695-2021

9/1/2009



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 27, 2009

PROVIDENCE DEVELOPMENT GROUP LLC
C/O STANLEY CONSULTANTS INC
ATTN: DEAN CARDWELL
2264 S BONITO WAY, STE 150
MERIDIAN ID 83642

RE: Preliminary Order in the matter of Application for Permit No. 63-32550

Dear Applicants:

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed yellow information sheet.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John Westra', is written over a horizontal line.

for: John Westra
Manager, Western Regional Office

Enclosures

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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. 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 Idaho Water Resource Board (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 issuance 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

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

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Director

June 8, 2009

CANYON COUNTY WATER CO
C/O BRYCE FARRIS
RINGERT LAW CHARTERED LAWYERS
PO BOX 2773
BOISE ID 83701-2773

Re: Withdrawal of Transfer Application Nos. 73777 and 74751

Dear Bryce:

I write to acknowledge your withdrawal of the above referenced transfer applications in the name of Canyon County Water Company. Refunds for the application fees will be issued to the payers under separate cover as follows:

1. Application 73777, \$250 to Middleton Lakes LLC, Receipt No. W034731
2. Application 74751, \$250 to Riverbend Estates LC, Receipt No. W036351.

Thank you for your help in this matter.

Please contact me if you have any questions.

Sincerely,

Steve Lester
Water Rights Supervisor

Copy: Dean Cardwell, Stanley Consultants
David Sterling, T O Engineers

CC for 63-32550



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Director

June 5, 2009

PROVIDENCE DEVELOPMENT GROUP LLC
C/O DEAN CARDWELL
STANLEY CONSULTANTS
2264 S BONITO WY STE 150
MERIDIAN ID 83642

Re: Application for Permit No. 63-32550, Ponds for Middleton Lakes Subdivision

Dear Mr. Cardwell:

We discussed the above referenced project recently. The ditch company just withdrew Application for Transfer No. 73777 originally proposed to mitigate consumptive from the ponds. Mitigation is no longer necessary and has been deleted from the project by withdrawal of the transfer application. Your client paid the transfer filing fee, and a refund will be issued to the client under separate cover.

As noted in prior communication with you, this means Application for Permit No. 63-32550 should be amended, probably as described below and as outlined in the enclosed information.

The approximate pond centers would be listed as six diversion points in two $\frac{1}{4}$ $\frac{1}{4}$ tracts. The place of use would be land covered by the ponds in three $\frac{1}{4}$ $\frac{1}{4}$ tracts. The total amount of water applied for would be the capacity of the ponds and the estimated consumptive use from evaporation. The consumptive use is added in the amended scenario since that use is no longer mitigated by the transfer proposal.

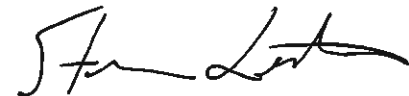
The original application for 134 af included payment of \$250, although the fee for that amount of water is \$290. The fee for 183 af is also \$290. Whether or not the application is amended, an additional \$40 is needed.

Please provide your written reply within the next sixty (60) days. This can include a request to interrupt processing for up to six (6) months if more time is needed to decide what to do. Without a timely reply, the application will be voided pursuant to Section 42-204, *Idaho Code*.

Application for Permit No. 63-32550
June 5, 2009
Page 2

Please let me know if you have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester". The signature is fluid and cursive, with the first name "Steve" and last name "Lester" clearly distinguishable.

Steve Lester
Water Rights Supervisor

Enclosure



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 • Web Site: www.idwr.idaho.gov

May 23, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Stanley Consultants Inc.
Attn: Dean Cardwell
2264 S Bonito Way, Suite 150
Meridian, ID 83642

RE: *Application for Permit for Providence Development Group LLC. and associated water right transfer for Canyon County Water Company LTD.*

Dear Mr. Cardwell:

I have received your May 20, 2008 request for additional time to provide the required additional information for the above mentioned applications. Your request has been granted. The additional information required in my May 1, 2008 letter will now be due on 5/1/2009. If the information has not been received by that time, I will contact you to determine if your clients are still interested in pursuing these applications.

If you have any questions or concerns please contact me at the above address.

Respectfully,

Daniel A. Nelson
Staff Hydrologist
Water Distribution Bureau
Idaho Department of Water Resources



Stanley Consultants INC.

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Engineering, Environmental and Construction Services - Worldwide

RECEIVED
MAY 21 2008
DEPARTMENT OF
WATER RESOURCES

May 20, 2008

Daniel Nelson
Sr. Water Rights Agent
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098

Dear Mr. Nelson:

Subject: Application for Permit for Providence Development Group LLC. And associated transfer for Canyon County Water Company LTD.

Per your letter dated 15 May 2008 I am sending this letter as a response and formal request for a one year time extension to allow us to further research, develop, and generate the information and documentation as we discussed during the meeting on April 1.

I appreciate your discussing with me the required information and processes and thank you once again for your time in doing so. I look forward to addressing the items we discussed and will contact you if I have any further questions.

Sincerely,

Stanley Consultants, Inc.

Dean Cardwell
Senior Designer

DOC



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 • Web Site: www.idwr.idaho.gov

May 15, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Stanley Consultants Inc.
Attn: Dean Cardwell
2264 S Bonito Way Suite 150
Meridian, Idaho 83642-9242

**RE: *Application for Permit for Providence Development Group LLC. and Associated
Transfer for Canyon County Water Company LTD***

Dear Mr. Cardwell:

The enclosed letter was sent to you per the address our office has in the above mentioned application files. The letter was returned, with a new address. Whereas the letter was returned, I am going to allow you 30 days from the date of this letter to supply the information requested in the enclosed letter dated May 1, 2008. Please supply the needed information no later than June 16, 2008.

If you have any questions or concerns please contact me at the above address.

Respectfully,

A handwritten signature in black ink, appearing to read 'Daniel A. Nelson', with a stylized flourish at the end.

Daniel A. Nelson
Sr. Water Right Agent

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
East Front Street, P.O. Box 83720
 Boise, Idaho 83720-0098

Return Service Requested

WA

RECEIVED

MAY 09 2008

DEPARTMENT OF
WATER RESOURCES



03-32550

(Providence Development
Group)

837 NFE 1 8071 00 05/05/08
RETURN TO SENDER
STANLEY CONSULTANTS
2264 S BONITO WAY STE 150
MERIDIAN ID 83642-9242

RETURN TO SENDER

C446551 836
8372000098





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 • Web Site: www.idwr.idaho.gov

May 1, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Stanley Consultants Inc.
Attn: Dean Cardwell
1940 S. Bonito Way, Suite 140
Meridian, ID 83642

RE: *Application for Permit for Providence Development Group LLC. and associated Transfer for Canyon County Water Company LTD*

Dear Mr. Cardwell:

On April 1, 2008, we meet in my office to discuss the application for permit for Providence Development Group LLC and the associated transfer for Canyon County Water Company LTD. During this meeting we discussed several issues that needed to be addressed in order to proceed with processing of these applications. At the end of the meeting I informed you that information should be supplied within the next 30 days. Unfortunately, we have not received that information. This letter is a formal request for the information required. I have listed the needed information below for your reference:

For the Permit:

- 1.) Only one point of diversion is described on the application. There are seven ponds, therefore there should be 7 points of diversion. One for each pond located in the center of the pond.
- 2.) The place of use description is missing several 40 acre tract identifiers. You must include each 40 acre tract legal description where a pond is located.
- 3.) The processing fee for the permit was \$40.00 below the required fee amount. Therefore, in order to process the application, we would need an additional \$40.00.

For the Transfer:

- 1.) We need to add the acre feet volume amounts for the storage components for the water right on the front page of the form. There is already 87.9 acre feet on the water right from previous transfers. Using the standard one-for-one swap we can use the maximum consumptive use amount of 3.5 acre feet per acre. With 13 acres being retired this would allow an additional 45.5 acre-feet of water ($13 \times 3.5 = 45.5$). The total volume would then be the total amount already on the water right plus the additional amount being proposed for a total of 133.4 acre-feet of water for recharge ($45.5 + 87.9 = 133.4$ af).

Page 2
Providence
5/1/2008

- 2.) In section 5 on Page 1 of the transfer, you need to include all of the legal descriptions for the recharge. This will allow the transfer to address all of the recharge as a whole at the proper locations.
- 3.) On page 1 and page 4, you need to reduce the number of acres allowed for irrigation by the number of acres being retired for recharge. Therefore, the total irrigated acres needs to be reduced to 3973.3 acres.
- 4.) We also need a narrative on Page 2 or as an attachment that states that you are proposing the one-for-one swap for the recharge. You will also need to provide a comment in this narrative that assures us that highly consumptive crops were grown on this property prior to the installation of the ponds. With this information you can request the standard 3.5 acre feet per acre for consumptive use to calculate the volume per Steve Lester's instructions during the initial visits concerning these applications.
- 5.) The narrative will also need to explain the fee that was paid. The narrative should state that only 12.9 acres or 0.26 cfs is being altered on this water right, therefore, the transfer fee should only be based on the portion of the water right being altered and not the entire water right.

Once we receive the above information, we should be able to continue with processing. However, further clarification may be needed dependent on the information supplied.

Please submit the requested information to allow final evaluation of your application to be completed. You may seek additional time to provide the information by making a written request to delay or interrupt processing. Your written response including the requested information, or a request for more time to seek the information, must be received by 6/1/2008. IDWR will issue a preliminary order to reject or deny the application without a timely reply.

If you have any questions or concerns please contact me at the above address.

Respectfully,



Daniel A. Nelson
Staff Hydrologist
Water Distribution Bureau
Idaho Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

October 12, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

BRIAN IVERSON PE/LS
STANLEY CONSULTANTS INC
1940 S BONITO WY STE 140
MERIDIAN ID 83642

Re: Application for Permit for Providence Development Group LLC

Dear Mr. Iverson:

This letter acknowledges receipt of an application for permit for the above entity. The application proposes a new water right from a shallow ground water system for aesthetic ponds for Middleton Lakes Subdivision.

A companion filing accompanied the application. The companion filing is an Application for Transfer in the name of Canyon County Water Company, Ltd. The transfer filing proposes to retire irrigation under an existing water right to mitigate consumptive use related to the proposed ponds.

Please contact me at 334-2190 if you need more information or have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Lester'.

Steve Lester
Water Rights Supervisor



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RECEIVED

SEP 27 2006

WATER RESOURCES
WESTERN REGION

September 25, 2006

Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

Attention: Steve Lester, Water Rights Supervisor

Subject: Eagle Sport Legends Development, LLC
Ground Water Right Application

Dear Mr. Lester:

Attached please find:

1. An Application for Permit executed by Providence Development Group, LLC
2. A Check in the amount of \$250.00 for the Permit
3. An Application for Transfer of Water Right executed by the Canyon County Water Co. LTD
4. A Check in the amount of \$250.00 for the Transfer

The reason for the Permit and Application is the ponds for the Middleton Lakes Subdivision development located in Middleton, Idaho. The Permit is for the aesthetic storage of 134 AFA in a series of six ponds and is being filed by the subdivision developer, Providence Development, LLC.

The Transfer is to account for the change in the nature of use of 12.9 acres from agricultural irrigation to ground water recharge of the surface water right held by Canyon County Water Company, LTD, in which company the Applicant for Permit holds 96.3 shares. The Canyon County Water Company LTD has executed the Transfer after review by their legal counsel.

Please review the application to determine if it is complete. If the application is complete, would you please send a letter to the effect that IDWR has received the applications for water rights and required water transfer in conjunction with the ponds at Middleton Lakes Subdivision. The developer needs such a letter as evidence to the City that it is resolving the water rights issues associated with the ponds.

If you have any questions or require additional information please contact me.

Sincerely,
Stanley Consultants, Inc.

Brian Iverson, P.E./L.S.
Senior Engineer