

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 63-31934

Priority: May 06, 2003

Maximum Diversion Volume: 272.0 AF

This is to certify, that LAKELAND VILLAGE LLC  
C/O RON BATH  
805 W IDAHO ST STE 300  
BOISE ID 83702

has applied for a permit to appropriate water from:

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

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

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|----------------------|
| AESTHETIC STORAGE     | 01/01 to 12/31       | 272.0 AF             |

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER SW1/4SW1/4 Sec. 14, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER L1 (SE1/4SE1/4) Sec. 15, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER L1 (SE1/4SE1/4) Sec. 15, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER L3 (NE1/4NW1/4) Sec. 23, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER SW1/4SW1/4 Sec. 14, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER SW1/4SW1/4 Sec. 14, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER L3 (NE1/4NW1/4) Sec. 23, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER L4 (NW1/4NW1/4) Sec. 23, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER L4 (NW1/4NW1/4) Sec. 23, Twp 04N, Rge 01E, B.M. ADA County  
GROUND WATER L4 (NW1/4NW1/4) Sec. 23, Twp 04N, Rge 01E, B.M. ADA County

**PLACE OF USE:** AESTHETIC STORAGE

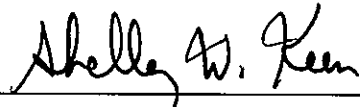
| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 04N 01E 14  |    |    |    |    |    |    |    |    |    |    | X  |    |    |    |    |    |        |
| 04N 01E 15  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X  |        |
| 04N 01E 23  |    |    |    |    | X  | X  |    |    |    |    |    |    |    |    |    | L1 |        |
|             |    |    |    |    | L3 | L4 |    |    |    |    |    |    |    |    |    |    |        |

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 63-31934

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2011**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
5. Right holder shall install and maintain a measuring device acceptable to the Department to regulate water that is diverted into the Lakeland Village irrigation/pond system. Furthermore, the right holder shall ensure that U.S. Bureau of Reclamation (Reclamation) storage water will not be used for the aesthetic storage component of Lakeland's deliveries by reducing the total flow of water delivered by 0.02 cfs at any time that the New Union Ditch Company is receiving Reclamation storage water, and will provide proof accordingly when requested by Reclamation or the State Watermaster.
6. To offset the depletion of water resulting from the use of water under this right, the right holder shall, in cooperation with the owner of Right 63-146, divert 0.36 cfs and an annual diversion volume of 66.4 af for ground water recharge as authorized by Transfer 73632. If the right holder cannot continue to implement this mitigation plan every year for any reason, the right holder shall immediately implement an alternative mitigation plan approved by the Department.
7. This right does not grant any right-of-way or easement across the land of another.
8. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
9. Failure of the right holder to comply with any condition of approval is cause for the Director to void this permit.
10. Aesthetic storage use is for 10 ponds and shall be limited to a total capacity of 272 acre-feet and a total surface area of 18.1 acres.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 19<sup>th</sup> day of December, 2008.

  
for DAVID R. TUTHILL, JR., Director

RECEIVED

MAY 15 2003

WATER RESOURCES  
WESTERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

1. Name of Applicant Lakeland Village, LLC Phone 208-344-7171  
Mailing address c/o Ron Bath, Coldwell Banker Aspen Realty, 805 W. Idaho St., Suite 300, Boise, ID 83702
2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_
3. Location of point of diversion is Township \_\_\_\_\_ Range \_\_\_\_\_ Sec. \_\_\_\_\_, in the \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_, B.M., \_\_\_\_\_ Ada \_\_\_\_\_ County;

Additional points of diversion if any: See Exhibit A list of points of diversion

4. Water will be used for the following purposes:

Amount 272 AF for Aesthetic purposes from 1-1 to 12-31 (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)
- 272 AF per annum
- 
- 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 See Narrative and Mitigation Plan attached as Exhibit B.
- b. Height of storage dam \_\_\_\_\_ at grade \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity 272 acre-feet
- c. Proposed well diameter is NA inches; proposed depth of well is NA feet
- d. Is ground water with a temperature of 85°F being sought? No
- e. If well is already drilled, when? NA; Drilling firm NA  
Well was drilled for (well owner) NA; Drilling Permit No. NA

7. Time required for completion of works and application of water to proposed beneficial use is
- 2
- 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. NA
- b. Stockwatering; list number and kind of livestock. NA
- c. Municipal; show name of municipality. NA
- d. Domestic; show number of households. NA
- e. Other; describe fully. Aesthetic use. See Narrative and Mitigation Plan attached as Exhibit B.

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

| 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  | 1E  | 14  |    |    |    |    |    |    |    |    |    |    | J  |    |    |    |    |    |        |
|     |     | 15  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | J  |        |
|     |     | 23  |    |    |    |    | J  | J  |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Total number of acres irrigated NA

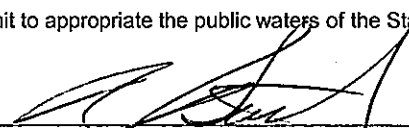
10. Describe any other water rights used for the same purposes described above. None

11. a. Who owns the property at the point of diversion? Ponds are owned by different individuals  
b. Who owns the land to be irrigated or place of use? Ponds are owned by different individuals  
c. If the property is owned by a person other than the applicant, please describe the arrangement enabling the applicant to make this filing See ownership information attached as Exhibit C

12. Remarks: See attachments: Exhibit B – Narrative and Mitigation Plan  
Exhibit C – Ownership Information  
Exhibit D – Property Map

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.)  
See map attached as Exhibit D

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.

  
Signature of Applicant (and title, if applicable)

Received by KH Date 5/16/03 Time 10:02 Preliminary check by SL  
Fee \$ 33000 Receipted by KH # W030475 Date 5/16/03  
Publication prepared by sk Date 6-3-04 Published in THE IDAHO STATESMAN  
Publication approved sk Date 6-21-04

## EXHIBIT A

| TWNSHP | RGE | SEC | LOT | TRACT           |
|--------|-----|-----|-----|-----------------|
| 04N    | 01E | 14  |     | SWSW (4 PODS) * |
| 04N    | 01E | 23  |     | NWNW (3 PODS) * |
| 04N    | 01E | 23  |     | NENW (2 PODS)   |
| 04N    | 01E | 15  |     | SWSW (2 PODS)   |
|        |     |     |     |                 |
|        |     |     |     |                 |

\* Pond # 3 overlaps SWSW S14 and NWNW S23

63-31934

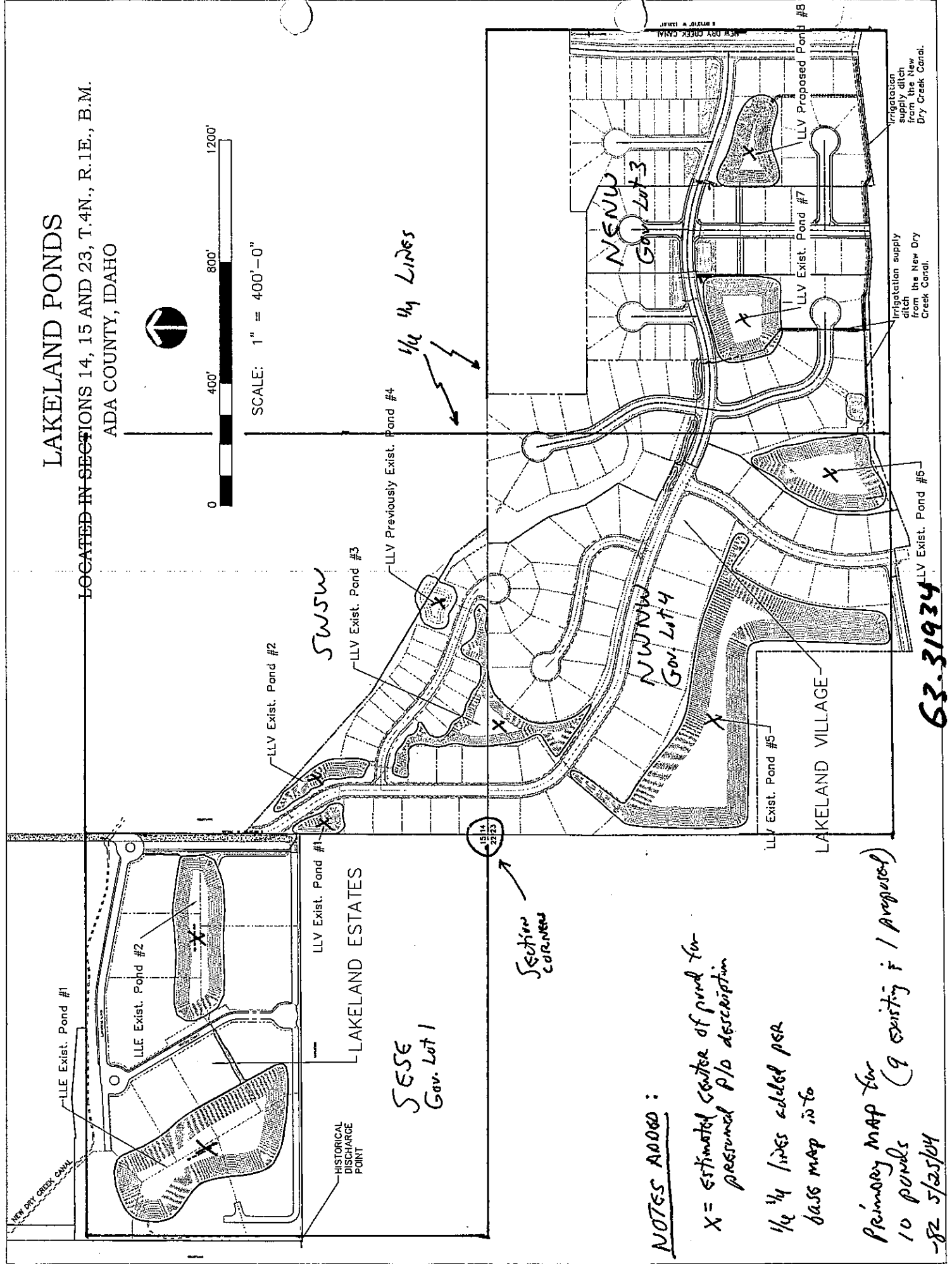
# LAKE LAND PONDS

LOCATED IN SECTIONS 14, 15 AND 23, T.4N., R.1E., B.M.  
ADA COUNTY, IDAHO



SCALE: 1" = 400'-0"

$\frac{1}{2}$  by Lines



A1075C A0060:

$X$  = estimated center of pond for presumed p/o description

$1\frac{1}{4}$  lines added per  
base map into

Primary map for  
10 ponds (9 existing; 1 proposed)  
-82 5/25/04

## Exhibit B

State of Idaho  
Department of Water Resources  
**Application for Permit**  
(Lakeland Village, LLC)  
**Narrative and Mitigation Plan**

This Narrative is prepared to support an Application for Permit for an aesthetic storage water right. Authorization is requested to appropriate a total of 272 acre-feet of shallow alluvial ground water that will be exposed by the excavation of ten ponds with a total surface area of 18.1 acres as depicted and tabulated in Exhibit D. The ponds will be excavated below grade and therefore do not require berms or a dam to retain the water.

The ponds are or will be interconnected (some of the ponds already have been constructed) and integrated into the distribution system for irrigation water that currently is delivered to the Property pursuant to shares held by the Applicant in the New Dry Creek Ditch Company, Limited (one share) and New Union Ditch Company Limited (eighty-nine shares) and Boise Valley Irrigation Ditch Company (eighteen shares) (copies of the certificates are included as Exhibit C.

The documents included in Exhibit C show that the Applicant, Lakeland Village, LLC, is authorized to file this permit. First, the Applicant is a duly organized LLC under Idaho law authorized to do business in Idaho. Second, Applicant currently owns the land in the Lakeland Village Subdivision, which is located in sections 14 and 23, T 4N, R 1E, B.M. Deeds are attached confirming ownership. Third, the Homeowners Association for the Lakeland Estates Subdivision, which controls the common areas affected by this permit in Lakeland Estates, has authorized the Applicant to file for this permit for the ponds it controls. The authorization is included in Exhibit C.

The Application is solely for aesthetic storage in the ponds. The Applicant does not propose to divert water from any of the ponds sought under this Application. However, depending on the time of year, the excavation of the ponds will expose up to 18.1 surface acres (see map attached as Exhibit D) of ground water to evaporation, which will cause a total annual evaporative loss of ground water from the ponds of 796.40 inches (18.1 acres x 44 inches of evaporation per acre).<sup>1</sup> To mitigate for this loss, the Application proposes to eliminate consumptive irrigation on 22 acres of pasture grass historically irrigated by the Applicant's predecessors on lands within the Property using water delivered pursuant to 22 shares owned by the Applicant in the New Union Ditch Company. (Copies of the shares are attached as part of Exhibit C.) Of the 22 acres, 18.1 will be converted directly from pasture irrigation into the ponds. The remaining 3.9 acres are formerly irrigated acres, which will be converted to roadways, sidewalks and building pads within the subdivisions.

<sup>1</sup> Molnau, Myron, Kpordze, Kojo C.S., and Craine, Katherine L., Monthly Shallow Pond Evaporation in Idaho, ASAE paper PNW 92-11 (1992).

Each acre of converted pasture ground will yield 37.12 inches per acre ( $942 \text{ mm} \times 0.0394 \text{ mm per inch}$ )<sup>2</sup>. Thus, by drying up 22 acres, Applicant will remove 816.64 inches (22 acres  $\times$  37.12 inches per acre) of consumptive use from the system, which is 20.24 inches more than the evaporative loss expected from the ponds.

In lieu of using the water delivered pursuant to the 22 shares for irrigation, the Applicant will divert the water delivered under the New Union shares into the ponds. An Application for Transfer to convert the corresponding portion of the New Union Ditch Company's water rights is filed contemporaneously with this Application.

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<sup>2</sup> R.G. Allen and C.E. Brockway, Estimating Consumptive Irrigation Requirements for Crops in Idaho, University of Idaho (August, 1983) (Appendix E – pasture mean IR for Deer Flat Dam).

## **Exhibit C**

- 1. Articles of Organization of Lakeland Village, LLC**
- 2. Deeds**
  - a. Quitclaim Deed**
  - b. Warranty Deed (Grantee: Lakeland Village, LLC; Grantor: Clements)**
  - c. Warranty Deed (Grantee: Lakeland Village LLC; Grantor: Wilkersons)**
- 3. Authorization to File Water Applications**
- 4. Copies of Shares**

63-31934



# ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

MAY 17 3 28 PM '99

1. The name of the limited liability company is: Lakeland Village LLC
2. The address of the initial registered office is: 316 W. Bannock St.  
Boise, ID 83702 and the name of the initial registered agent at that address is: Salmon Point Development, Inc.  
Attn: R.W. Ron Bath
- Signature of registered agent: [Signature]

3. Management of the limited liability company will be vested in:

Manager(s) ☒ or Member(s) ☐ . (please check the appropriate box)

4. If management is to be vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is to be vested in the members, list the name(s) and address(es) of at least one initial member.

| Name                                  | Address                                    |
|---------------------------------------|--------------------------------------------|
| <u>Salmon Point Development, Inc.</u> | <u>316 W. Bannock St., Boise, ID 83702</u> |
| _____                                 | _____                                      |
| _____                                 | _____                                      |
| _____                                 | _____                                      |
| _____                                 | _____                                      |

5. Signature of at least one person responsible for forming the limited liability company:

[Signature]  
R.W. Ron Bath, President of Salmon  
Point Development, Inc.

IDaho SECRETARY OF STATE

Secretary of State use only

05/18/1999 09:00

CK: 1272 CF: 115640 BH: 217610

1 @ 100.00 = 100.00 ORGAN LLC # 2

W8785

00087775PW

ADA COUNTY RECORDER  
J. DAVID NAVARRO  
BOISE, IDAHO

2000 JUL 13 PM 4:46

RECORDED - REQUEST OF  
FEE 9.00 DEPUTY K. H. Russell

100054753

ALLIANCE TITLE

QUITCLAIM DEED

ORDER NO.: 99082092

FOR VALUE RECEIVED, Wallace E. Clements, Wayne E. Clements and Ralph E. Clements, a partnership doing business as Clements Ready Mix Concrete Co.

Do(es) hereby convey, release, remise and forever quit claim unto

Lakeland Village, LLC, and Idaho Limited Liability Company

whose current address is:: 913 West River Street #200 Boise, ID 83702

the following described premises:

According to schedule A attached hereto

TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

July , 2000

Wallace E. Clements, Wayne E. Clements and Ralph E. Clements, a partnership

Mabel E. Clements  
Mabel E. Clements, partner

Wayne E. Clements  
Wayne E. Clements, partner

Ralph E. Clements  
Ralph E. Clements, partner

Mabel E. Clements  
Mabel E. Clements

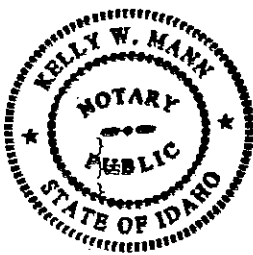
Wayne E. Clements  
Wayne E. Clements

Ralph E. Clements  
Ralph E. Clements

State of Idaho )  
County of ADA )ss

On this 14<sup>th</sup> DAY OF JULY, 2000, before me, a Notary Public in and for said state, personally appeared MABEL E. CLEMENTS, RALPH E. CLEMENTS & WAYNE E. CLEMENTS, known or identified to me to be the person(s) whose name(s) are subscribed to the within Instrument and acknowledged to me that they executed same.  
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Kelly W. Mann  
Notary Public for the State of Idaho  
Residing at: BOISE  
Commission Expires: 10/29/05



State of Idaho  
County of ADA

On this 11 day of July, in the year 2000, before me, a Notary Public in and for said state, personally appeared MABEL E. CLEMENTS, WAYNE E. CLEMENTS & RALPH E. CLEMENTS known or identified to me to be the partner(s) that executed the foregoing instrument, and acknowledged to me that executed the same in said Partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Kelly W. Mann  
Notary Public for the State of Idaho  
Residing at: Boise  
Commission Expires: 10/29/05

## EXHIBIT A

A Major Portion of the N $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 23, T. 4 N., R. 1 E., B.M. Ada County, Idaho, being more particularly described as follows:

Commencing at the existing Section Corner common to Section 14, 15, 22 and 23, T. 4 N., R. 1 E., B.M., which is marked by a one inch diameter steel pin, and is the real point of beginning; thence

S. 89°52' E. 1,446.07 feet along the Section Line between Sections 14 and 23 to a point marked by an iron pin, which lies N. 89°52' W. 1,200.00 feet from the existing  $\frac{1}{2}$  Section Corner common to Section 14 and 23, which is marked by a one inch diameter steel pin bent over a marked stone; thence

S. 00°08' W., 325.00 feet to a point marked by an iron pin; thence

S. 89°52' E., 600.00 feet to a point marked by an iron pin; thence

N. 00°08' E., 50.00 feet to a point marked by an iron pin; thence

S. 89°52' E., 599.44 feet to a point on the North-South Centerline of Section 23, which point lies S. 00°15' W. 275.00 feet from the existing Quarter Section Corner common to Section 14 and 23; thence

S. 00°15' W. 961.07 feet along the North-South Centerline of Section 23, to an existing 3/8 inch diameter rebar pin set in concrete; thence along the following courses and distances to existing  $\frac{1}{2}$  inch diameter rebar pins set in concrete:

N. 78°05' W., 74.38 feet;

S. 83°31' W., 445.04 feet;

N. 04°08' W., 22.67 feet;

S. 86°15' W., 229.86 feet;

N. 85°06' W., 134.33 feet;

S. 88°18' W., 236.29 feet;

S. 88°18' W., 263.79 feet;

S. 68°47' W., 309.24 feet;

S. 80°07' W., 29.03 feet;

N. 09°53' W., 54.95 feet;

S. 80°07' W., 342.98 feet;

N. 00°06' E., 509.97 feet;

N. 89°53' W., 600.00 feet to an iron pin on the Section line between Section 23 and 22; thence

N. 00°09' E., 883.34 feet along the Section line to the real point of beginning.

EXCEPTING AND RESERVING from the above described tract of land a perpetual road right-of-way easement 18 feet wide lying along and adjacent to a portion of the Southerly boundary of the above described land, being more particularly described as follows:

Beginning at the point located S. 00°15' W., 1,236.07 feet from the above described  $\frac{1}{2}$  Section Corner between Sections 14 and 23, which is at the Easterly end of the road right-of-way, and is the real point of beginning;

Thence along the following courses and distances to existing iron pins, along the Southerly boundary of the road right-of-way:

N. 78°05' W., 74.38 feet;

S. 83°31' W., 445.04 feet;

N. 04°08' W., 22.67 feet;

S. 86°15' W., 229.86 feet;

N. 85°06' W., 134.33 feet;

S. 88°18' W., 236.29 feet;

S. 88°18' W., 263.79 feet;

S. 68°47' W., 309.24 feet;

S. 80°07' W., 29.03 feet;

N. 09°53' W., 54.95 feet;

S. 80°07' W., 342.98 feet;

Thence N. 00°06' E., 18.28 feet along the Westerly end of the road right-of-way to a point;

Thence in an Easterly direction along the Northerly boundary of the road right-of-way, on bearings parallel to, and at 90°00' right angles 18 feet from, the road right-of-way Southerly boundary bearings, to a point on the North-South Centerline of Section 24;

Thence S. 00°15' W., 18.00 feet to the real point of beginning.

Comprising approximately 62 acres more or less.

THIS FORM FURNISHED COURTESY OF:

ADA COUNTY RECORDER  
J. DAVID NAVARRO  
BOISE, IDAHO

FEE DEPOSIT

2000 HR 29 PM 4:13

100023533

ALLIANCE TITLE &amp; ESCROW CORP.

ALLIANCE TITLE

Alliance

READ &amp; APPROVED BY GRANTEE(S): \_\_\_\_\_

SPACE ABOVE THIS LINE FOR RECORDING DATA

{3050}

Order No.: 99082092 KS

## WARRANTY DEED

FOR VALUE RECEIVED WALLACE E. CLEMENTS, WAYNE E. CLEMENTS and RALPH E. CLEMENTS, a partnership, doing business as CLEMENTS READY MIX CONCRETE CO.

GRANTOR(S), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto LAKELAND VILLAGE, LLC, an Idaho limited liability company

GRANTEE(S), whose current address is: 913 WEST RIVER STREET #200, BOISE, ID 83702

the following described real property in ADA County, State of Idaho, more particularly described as follows, to wit:

As set forth on the attached EXHIBIT "A", which by this reference becomes a part hereof.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: March 27, 2000

WALLACE E. CLEMENTS, WAYNE E. CLEMENTS and RALPH E. CLEMENTS,  
a partnership

By: Mabel E. Clements  
Mabel E. Clements, partner

By: Ralph E. Clements  
Ralph E. Clements, partner

Wayne E. Clements  
Wayne E. Clements

By: Wayne E. Clements  
Wayne E. Clements, partner

Mabel E. Clements  
Mabel E. Clements

Ralph E. Clements  
Ralph E. Clements

STATE OF IDAHO County of Ada, ss.

On this 28<sup>th</sup> day of March in the year of 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared Mabel E. Clements, Wayne E. Clements and Ralph E. Clements known or identified to me to be the partners in the partnership of WALLACE E. CLEMENTS, WAYNE E. CLEMENTS and RALPH E. CLEMENTS and the partners who subscribed said

partnership's name to the foregoing instrument, and acknowledged to me that they executed the same in said partnership name.

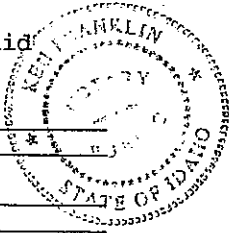
Signature: [Signature]

Name: \_\_\_\_\_

(Type or Print)

Residing At: Boise

My Commission expires: 10/5/04



STATE OF IDAHO, County of Ada, ss.

On this 28<sup>th</sup> day of March in the year of 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared Mabel E. Clements, Wayne E. Clements and Ralph E. Clements known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Signature: [Signature]

Name: \_\_\_\_\_

(Type or Print)

Residing At: Boise

My Commission expires: 10/5/04

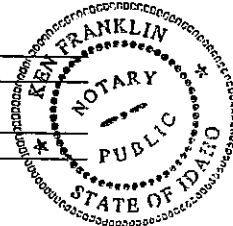


EXHIBIT "A"

PARCEL 2

A parcel of land situated on a portion of Government Lots 3 and 4 of Section 23, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, described as follows:

COMMENCING at a 5/8 inch rebar marking the Northeast corner of said Lot 3; thence along the North line of said Section 23 North 89°52'00" West a distance of 2644.72 feet to a brass cap monument marking the section corner common to Sections 14, 15, 22 and 23 the POINT OF BEGINNING; thence South 26°51'33" East a distance of 1.15 feet to a 1 inch diameter steel pin; thence South 89 degrees 53'39" East a distance of 1446.07 feet to a 1/2 inch rebar; thence North 60°13'21" East a distance of 0.33 feet to the said North section line; thence North 89°52'00" West along the said North section line a distance of 1446.59 feet to the POINT OF BEGINNING.

## EXHIBIT "A"

A parcel of land situated on a portion of Government Lots 3 and 4 of Section 23, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho being a portion of the land as shown on Record of Survey No. 4779 and Record of Survey for LAKELAND VILLAGE PHASE 2 and described as follows:

COMMENCING at a 5/8 inch rebar marking the Northeast corner of said Lot 3; thence along the North line of said Section 23 North 89 degrees 52'00" West a distance of 2644.72 feet to a brass cap monument marking the section corner common to Sections 14, 15, 22 and 23; thence South 26 degrees 51'33" East a distance of 1.15 feet to a 1 inch diameter steel pin and the POINT OF BEGINNING; thence South 89 degrees 53'39" East a distance of 1446.07 feet to a 1/2 inch rebar; thence South 00 degrees 13'21" West a distance of 325.00 feet to a 1/2 inch rebar; thence parallel with the said North section line North 89 degrees 52'00" West a distance of 111.79 feet to point; thence along the arc of a non-tangent curve to the left having a radius of 75.00 feet, an arc length of 20.95 feet, a central angle of 16 degrees 00'30", and a chord of 20.89 feet bearing South 24 degrees 41'38" East to a point; thence South 32 degrees 41'53" East a distance of 119.06 feet to a point; thence along the arc of a curve to the right having a radius of 225.00 feet, an arc length of 161.95 feet, a central angle of 41 degrees 14'22", and a chord of 158.47 feet bearing South 12 degrees 04'42" East to a point; thence South 08 degrees 32'29" West a distance of 86.96 feet to a point; thence South 38 degrees 47'02" East a distance of 29.41 feet to a point; thence South 03 degrees 53'26" West a distance of 50.00 feet to a point; thence along the arc of a non-tangent curve to the right having a radius of 625.00 feet, an arc length of 153.08 feet, a central angle of 14 degrees 02'00", and a chord of 152.70 feet bearing North 79 degrees 05'34" West to a point; thence South 13 degrees 22'20" West a distance of 200.48 feet to a point; thence North 71 degrees 26'37" West a distance of 50.02 feet to a point; thence South 48 degrees 00'06" West a distance of 98.19 feet to a point; thence South 32 degrees 04'23" West a distance of 95.79 feet to a point; thence South 16 degrees 20'34" West a distance of 95.79 feet to a point; thence South 00 degrees 36'45" West a distance of 95.79 feet to a point;

Continuation of Exhibit A

Order No.:99082092 KS

thence

South 09 degrees 40'56" East a distance of 105.63 feet to a point on the Southerly line of said land in Record of Survey No. 4779; thence along the boundary line as shown on Survey

South 68 degree 45'20" West a distance of 96.75 feet to a point; thence

South 80 degrees 05'20" West a distance of 29.03 feet to a point; thence

North 09 degrees 54'40" West a distance of 54.95 feet to a 1/2 inch rebar; thence

South 80 degrees 05'20" West a distance of 342.98 feet to a 1/2 inch rebar; thence

North 00 degrees 04'20" East a distance of 509.97 feet to a point; thence

North 89 degrees 54'40" West a distance of 600.00 feet to a point; thence

North 06 degrees 07'20" East a distance of 883.34 feet to the POINT OF BEGINNING.

ADA COUNTY RECORDER  
J. DAVID NAVARRO  
BOISE, IDAHO

THIS FORM FURNISHED COURTESY OF:

FEE 9.00 DEPUTY [Signature]

1999 JL 30 AM 11:25

99076135

ALLIANCE TITLE &amp; ESCROW CORP.

ALLIANCE TITLE

READ &amp; APPROVED BY GRANTEE(S): \_\_\_\_\_

SPACE ABOVE THIS LINE FOR RECORDING DATA

{6300}

Order No.: 99082093 KS/JS

**WARRANTY DEED**

FOR VALUE RECEIVED DICK WILKERSON and SHIRLEY HESS WILKERSON, husband and wife

GRANTOR(S), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto LAKELAND VILLAGE L.L.C., an Idaho Limited Liability Company

GRANTEE(S), whose current address is:

the following described real property in ADA County, State of Idaho, more particularly described as follows, to wit:

As set forth on the attached EXHIBIT "A", which by this reference becomes a part hereof.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

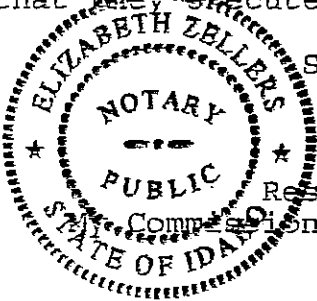
Dated: July 29, 1999

[Signature]  
DICK WILKERSON

[Signature]  
Shirley Wilkerson

STATE OF IDAHO, County of ADA, ss.

On this 29<sup>th</sup> day of July in the year of 1999, before me, the undersigned, a Notary Public in and for said State, personally appeared DICK WILKERSON and SHIRLEY HESS WILKERSON known or identified to me to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that ~~they~~ executed the same.



Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Elizabeth Zellers

Elizabeth Zellers

(Type or Print)

Residing At: \_\_\_\_\_

Boise, ID.

Commission expires: \_\_\_\_\_

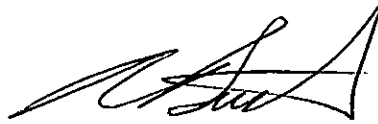
EXHIBIT "A"

A parcel of land lying and being situated in the Southwest Quarter of the Southwest Quarter of Section 14, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, being more particularly described as follows:

BEGINNING at the Southwest corner of Section 14, Township 4 North, Range 1 East, Boise Meridian; thence  
North 00 degrees 10'00" East along the West line of said Section 14, a distance of 805.18 feet; thence  
South 48 degrees 00'45" East 631.95 feet; thence  
South 58 degrees 40'40" East 524.19 feet; thence  
South 38 degrees 01'45" East 142.64 feet to a point in the South line of said Section 14; thence  
North 89 degrees 52'00" West along said South line 1007.54 feet to the PLACE OF BEGINNING.

## AUTHORIZATION TO FILE TRANSFER

1. Lakeland has filed an application for permit to authorize diversion of ground water into several aesthetic ponds on property Lakeland owns. To mitigate for evaporative loss associated with the permit, Lakeland is proposing to convert irrigation rights on its property to ground water recharge. These irrigation rights are represented by shares held in the New Union Ditch Company.
2. Based on all of the above, Lakeland hereby authorizes New Union Ditch Company, Limited to file an Application for Transfer with the Idaho Department of Water Resources affecting lands owned by Lakeland that will convert a portion of New Union's water right, represented by shares owned by Lakeland, from irrigation to groundwater recharge.



---

Ron Bath  
President, Lakeland Village, LLC

## **AUTHORIZATION TO FILE WATER APPLICATIONS**

1. The Lakeland Estates Homeowners Association ("Lakeland") was created on July 17, 2001, as evidenced by a copy of the Secretary of State filing attached hereto. All homeowners in the Lakeland Estates Subdivision are members of Lakeland.
2. Lakeland is responsible for managing and maintaining the common areas in the Lakeland Estates Subdivision, including three aesthetic and recreation ponds located within the subdivision.
3. Lakeland understands that a water right from the Idaho Department of Water Resources is necessary to authorize use of these ponds and possibly a mitigation plan that will require the transfer of the nature of use of irrigation rights historically associated with land in the subdivision.
4. Lakeland Village, LLC currently is developing a new subdivision adjacent to Lakeland Estates Subdivision that will share a common water delivery system for the ponds in the Lakeland Estates Subdivision.
5. Based on all of the above, Lakeland hereby authorizes Lakeland Village, LLC to file an Application for Permit with the Idaho Department of Water Resources that will authorize the ponds in the Lakeland Estates Subdivisions. Lakeland also authorizes New Union Ditch Company, Limited to file a transfer affecting lands in the subdivision that will convert a portion of New Union's water right, represented by shares owned by Lakeland, from irrigation to groundwater recharge.



Ron Bath  
President, Lakeland Estates  
Homeowners Association

JUL 18 10 10 AM '01

SECRETARY OF STATE  
STATE OF IDAHO

FILED/EFFECTIVE

IDAHO SECRETARY OF STATE  
07/18/2001 05:00  
CK: 30486 CT: 1626 PH: 48044  
10 38.00 = 38.00 INC. MON # 2

## ARTICLES OF INCORPORATION

OF

LAKELAND ESTATES HOMEOWNER'S ASSOCIATION, INC.

KNOW ALL PERSONS BY THESE PRESENTS:

The undersigned, for the purpose of forming a non-profit corporation under the laws of the State of Idaho in compliance with the provisions of Title 30, Chapter 3, Idaho Code, does hereby certify, declare and adopt the following Articles of Incorporation:

### ARTICLE I

#### NAME

The name of the corporation shall be LAKELAND ESTATES HOMEOWNER'S ASSOCIATION, INC. (the "Association").

### ARTICLE II

#### TERM

The period of existence and duration of the life of the Association shall be perpetual.

### ARTICLE III

#### NON-PROFIT

The Association shall be a non-profit, membership corporation.

### ARTICLE IV

#### REGISTERED AGENT

The location and street address of the initial registered office of the Association shall be 913 West River Street, Suite 200, Boise, Idaho 83702, and Ronald W. Bath is hereby appointed the initial registered agent of the Association.

### ARTICLE V

#### PURPOSE AND POWERS OF THE ASSOCIATION

The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which the Association is formed are to exercise all of the powers and

C139924

privileges and perform all of the Association's duties and obligations as set forth in the LAKELAND ESTATES (STANDARD SUBDIVISION) DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, recorded in the official records of Ada County, Idaho, as Instrument No. 99016901, as amended and supplemented from time to time (the "Declaration"), and the Project Documents identified therein, including, without limitation, the following powers:

(A) Fix, levy, collect and enforce payment by any lawful means of all charges or Assessments pursuant to the terms of the Declaration and all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association;

(B) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association under the limitations imposed by the Declaration;

(C) Borrow money, and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(D) Participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property, provided that any such merger, consolidation or annexation shall comply with the requirements of the Declaration; and

(E) Have and exercise any and all powers, rights and privileges which a corporation organized under the Idaho Nonprofit Corporation Act may by law now or hereafter have or exercise, subject only to limitations contained in the Bylaws, the Declaration, the Project Documents and any amendments and supplements thereto.

#### ARTICLE VI MEMBERSHIP

During the existence of this corporation, every Owner, including Grantor, shall be a Member of the Association. No Owner shall have more than one membership in the Association for each Lot owned.

#### ARTICLE VII VOTING RIGHTS

Voting Members. Each Owner, including the Grantor, shall be entitled to one (1) vote for each Lot owned by such Owner.

ARTICLE VIII  
BOARD OF DIRECTORS

The affairs of the Association shall be controlled by the Board of Directors (individually "Directors") to carry out all of the powers and duties of the Association as set forth herein, and shall be selected as follows:

(a) Selection of Directors. The Board shall consist of not less than three (3) Directors nor more than seven (7) Directors appointed by the Members of the Association.

(b) Number of Directors. The number of Directors may be changed by amendment of the Bylaws of the Association, but in no event shall the number be less than three (3). The names and addresses of the Persons who are to act in the capacity of Directors until the selection of their successors are as follows:

|                |                                                        |
|----------------|--------------------------------------------------------|
| Ronald W. Bath | 913 West River Street, Suite 200<br>Boise, Idaho 83702 |
|----------------|--------------------------------------------------------|

|               |                                                        |
|---------------|--------------------------------------------------------|
| Teri Ann Bath | 913 West River Street, Suite 200<br>Boise, Idaho 83702 |
|---------------|--------------------------------------------------------|

|                |                                                        |
|----------------|--------------------------------------------------------|
| David Fillmore | 913 West River Street, Suite 200<br>Boise, Idaho 83702 |
|----------------|--------------------------------------------------------|

ARTICLE IX  
ASSESSMENTS

Each Member shall be liable for the payment of Assessments pursuant to the Declaration and as set forth in the Bylaws of the Association.

ARTICLE X  
BYLAWS

The Bylaws of this Association may be altered, amended, or new Bylaws adopted at any regular meeting, or any special meeting of the Association called for that purpose, by the affirmative votes of more than fifty percent (50%) of the total voting power of the Association. For the purpose of specifying in detail the rights, responsibilities, duties and obligations of the Board of Directors, the officers, employees and agents of the Association, and the Members for the payment of Assessments, the Bylaws may incorporate by reference the provisions of the Declaration.

ARTICLE XI  
DISSOLUTION

The Association shall only be dissolved at a regular meeting, or a special meeting of the Association called for that purpose, by the affirmative votes of no less than two-thirds of the total voting power of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, the real property and other assets of the Association shall be distributed as follows: (i) dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created; or (ii) granted, conveyed and assigned to a non-profit corporation, association, trust or other organization to be devoted to such similar purposes. Notwithstanding any other provisions of these Articles, the Association shall not carry on any other activities not permitted by any organization exempt from federal income tax under Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States internal revenue law).

ARTICLE XII  
AMENDMENTS

Amendment of these Articles of Incorporation may be made at any regular meeting, or any special meeting of the Association called for that purpose, by the affirmative votes of more than two-thirds (2/3) of the total voting power of the Association as cast by the Association Delegates, and, if required by the Declaration, the consent of holders of first mortgages on Lot(s) who have requested in writing that the Association provide them notice of proposed actions which affect their interests. No amendment which is inconsistent with the provisions of the Declaration or the Project Documents shall be valid.

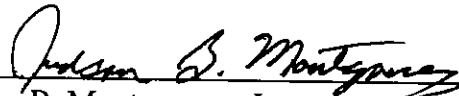
ARTICLE XIII  
MEANING OF TERMS

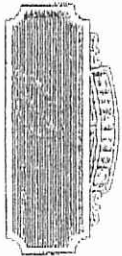
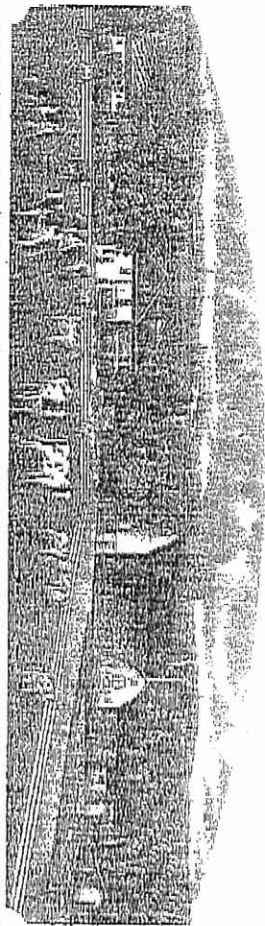
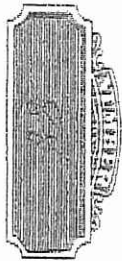
Except as otherwise defined herein, all terms appearing herein initially capitalized shall have the same meanings as are ascribed to such terms in the Declaration.

ARTICLE XIV  
INCORPORATION

Judson B. Montgomery, 277 N. 6<sup>th</sup> Street, Suite 200, Boise, Idaho 83702, shall be the incorporator of the Association.

IN WITNESS WHEREOF, I have hereunto set my hand and seal effective this 17<sup>th</sup> day of July, 2001.

  
\_\_\_\_\_  
Judson B. Montgomery, Incorporator



# THE NEW ENGLAND DITCH COMPANY LIMITED

6448-4448

regularly held at 60 West 11th St. for both ladies and gentlemen.

THE NEW UNION DITOL COMPANY, LIMITED

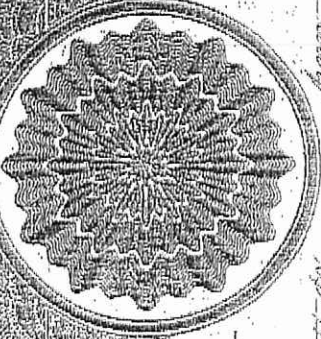
undoubtedly only on the basis of the confirmation by the holder of a passport or by other means of his confidence in property and credit.

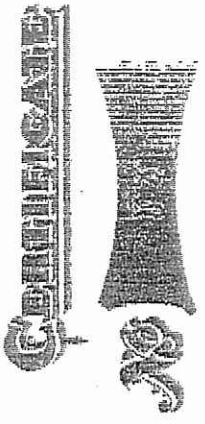
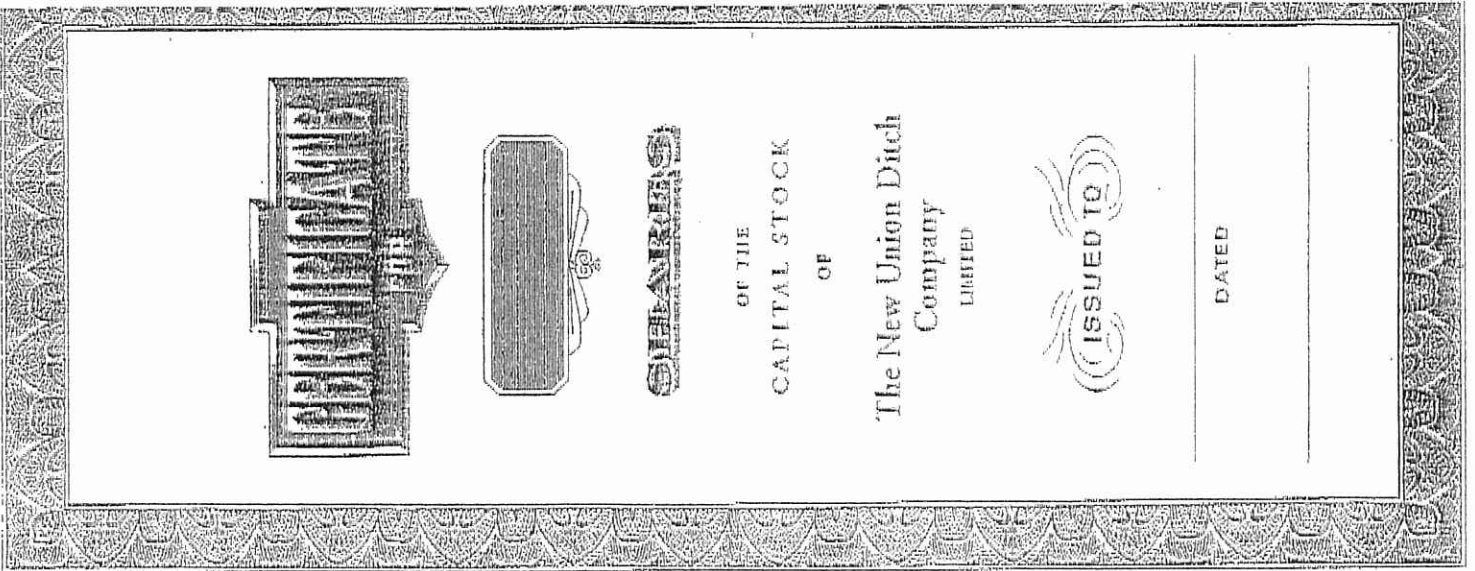
In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 5 day of March A.D. 1872

NO PREFERENCE

SECRETARY

PRESIDENT





For 60 Shares  
 Issued to  
Lakeland Village L.  
& Ben. Roth

Dated 11-5-00 1900  
 FROM WHOM TRANSFERRED

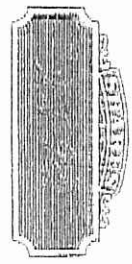
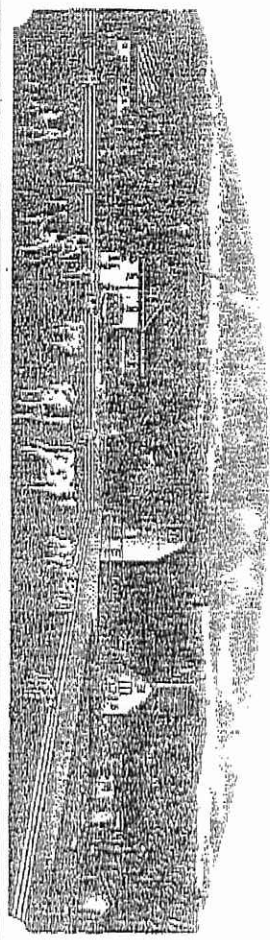
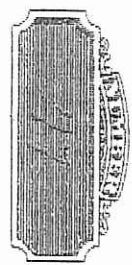
Dated 19  
 No. ORIGINAL CERTIFICATE  
 No. ORIGINAL SHARES  
 No. OF SHARES TRANSFERRED

Received Certificate No.  
 For Shares  
 this day of 19

For Value Received, \_\_\_\_\_ hereby sell, assign and transfer  
 under \_\_\_\_\_  
 represented by the within Certificate, and do hereby  
 irrevocably constitute and appoint \_\_\_\_\_  
 to transfer the said Shares in the books of the within named  
 Corporation, with full power of substitution in the premises.  
 Dated \_\_\_\_\_ 19\_\_\_\_  
 In presence of \_\_\_\_\_

NOTICE: THE SIGNATURE OF THE ISSUING  
 MUST BE VERIFIED BY THE NAME OF THE ISSUING  
 OFFICE OF THE CERTIFICATE. IN THE EVENT OF A  
 DISCREPANCY, THE CERTIFICATE IS VOID.

30 lines 790



THE NEW UNION DITCH COMPANY, LIMITED

600 Shares

*Registered*

*Lakeland Homeowners Association*

*is the*

*registered holder of*

*23.90*

*Shares*

THE NEW UNION DITCH COMPANY, LIMITED

*transferable only on the books of the Corporation by the holder hereof in person or by attorney upon surrender of this Certificate properly indorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 10th day of May 1925*

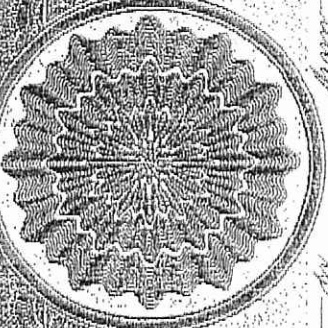
*Ken E. Jones*

SECRETARY

NO PAR VALUE

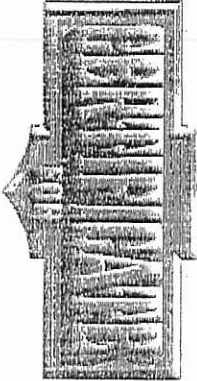
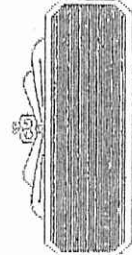
*Frank J. Jones*

PRESIDENT



THIS CERTIFICATE IS VALID ONLY WHEN SIGNED BY THE PRESIDENT AND TWO MEMBERS OF THE BOARD OF DIRECTORS OF THE COMPANY AND THE SIGNATURES ARE VERIFIED BY THE SECRETARY OF THE COMPANY.

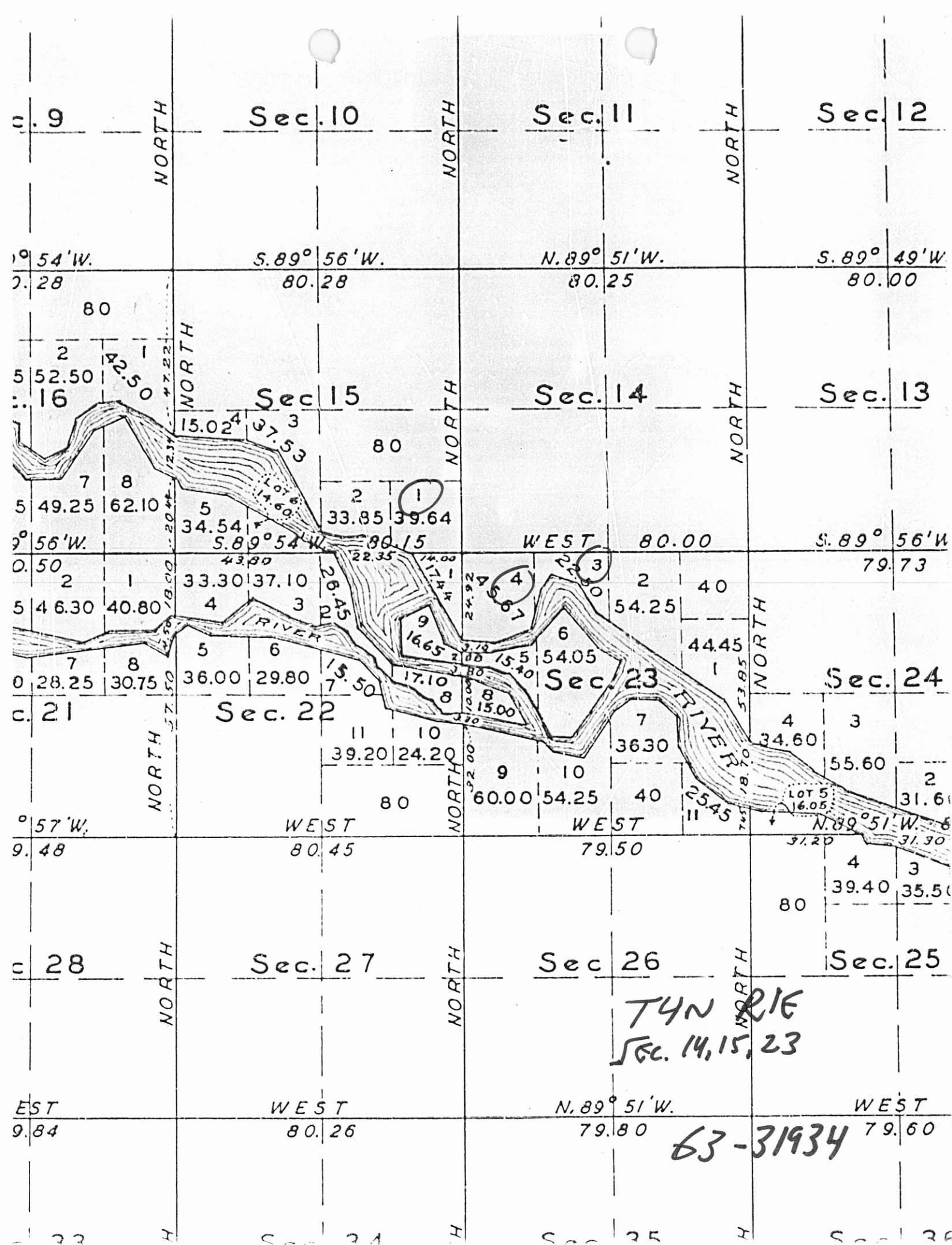
*John Walter Perceval, Secretary, and Treasurer*  
*resigneded by the within Certificate, and do hereby*  
*irrevocably, constitute and appoint*  
*Attorney*  
*to transfer the said Shares on the books of the within named*  
*Corporation, with full power of substitution, in the premises.*  
*Dated*  
*the presence of*

|                                                                                      |  |                                                                                     |                                                                                    |                               |                                           |           |       |
|--------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-------------------------------|-------------------------------------------|-----------|-------|
|  |  |  |  | OF THE<br>CAPITAL STOCK<br>OF | The New Union Ditch<br>Company<br>LIMITED | ISSUED TO | DATED |
|                                                                                      |  |                                                                                     |                                                                                    |                               |                                           |           |       |

LITHO IN U.S.A.

No. 760

|                                                                                       |                              |                              |
|---------------------------------------------------------------------------------------|------------------------------|------------------------------|
|  |                              |                              |
| The 22.90 Shares                                                                      |                              |                              |
| transferred to                                                                        |                              |                              |
| Lakeland Hummocks Assoc.                                                              |                              |                              |
| to Salmon Point Ditch Company                                                         |                              |                              |
| 6261 4 Charles St.<br>81112, 1044 83305 653-7365                                      |                              |                              |
| Dated 11-20-98                                                                        |                              |                              |
| FROM WHOM TRANSFERRED                                                                 |                              |                              |
| Royce Lechner's                                                                       |                              |                              |
| Dated 11-2-98                                                                         | No. OF SHARES<br>TRANSFERRED | No. OF SHARES<br>CERTIFICATE |
| 22.90                                                                                 | 22.90                        | 22.90                        |
| Received Certificate No.                                                              |                              |                              |
| for Shares                                                                            |                              |                              |
| this day of                                                                           |                              |                              |



# LAKELAND VILLAGE PONDS

LOCATED IN SECTIONS 14 AND 23, T.4N., R.1E., B.M.  
ADA COUNTY, IDAHO



SCALE: 1" = 300'-0"

| Pond # | Approx. Min. Groundwater Surface Area | Approx. Max. Groundwater Surface Area | Estimated. Max. Groundwater Volume |
|--------|---------------------------------------|---------------------------------------|------------------------------------|
| 1      | 0.16 Acres                            | 0.25 Acres                            | 0.7 Acre/Ft                        |
| 2      | 0.26 Acres                            | 0.42 Acres                            | 1.9 Acre/Ft                        |
| 3      | 1.08 Acres                            | 1.58 Acres                            | 11.3 Acre/Ft                       |
| 4      | 0.21 Acres                            | 0.39 Acres                            | 1.2 Acre/Ft                        |
| 5      | 5.50 Acres                            | 6.12 Acres                            | 115.0 Acre/Ft                      |
| 6      | 1.45 Acres                            | 1.67 Acres                            | 25.5 Acre/Ft                       |
| 7      | 1.24 Acres                            | 1.43 Acres                            | 23.9 Acre/Ft                       |

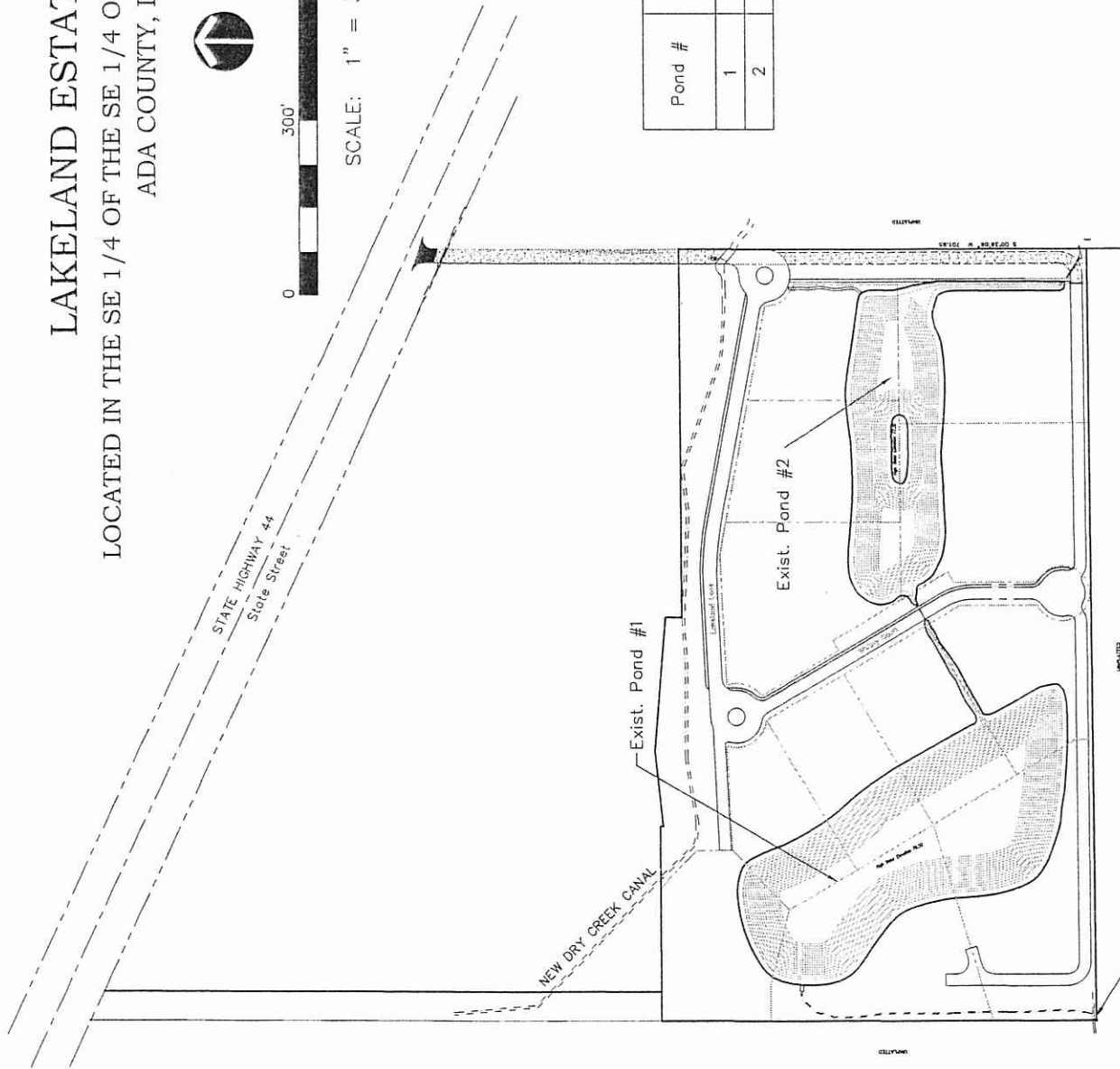


# LAKELAND ESTATES PONDS

LOCATED IN THE SE 1/4 OF THE SE 1/4 OF SECTIONS 15, T.4N., R.1E., B.M.  
ADA COUNTY, IDAHO



SCALE: 1" = 300'-0"



| Pond # | Approx. Min. Groundwater Surface Area | Approx. Max. Groundwater Surface Area | Estimated. Max. Groundwater Volume |
|--------|---------------------------------------|---------------------------------------|------------------------------------|
| 1      | 3.06 Acres                            | 3.41 Acres                            | 69.6 Acre/Ft                       |
| 2      | 1.46 Acres                            | 1.78 Acres                            | 11.9 Acre/Ft                       |

*Supplemental map of existing ponds*



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](http://www.idwr.idaho.gov)

December 22, 2008

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

LAKELAND VILLAGE LLC  
C/O RON BATH  
805 W IDAHO ST STE 300  
BOISE ID 83702

RE: Permit No. 63-31934

### Permit Approval Notice

Dear Permit Holder and Other Interested Persons:

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

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

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

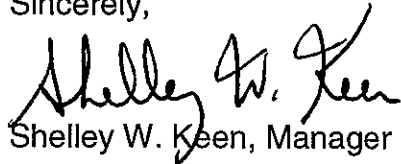
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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

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

If you have any questions, please contact me at 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name being the most prominent.

Shelley W. Keen, Manager  
Water Right Permits Section

Enclosure(s)

cc: GIVENS PURSLEY LLP  
US DEPT OF INTERIOR  
Watermaster Rex Barrie

## **CERTIFICATE OF SERVICE**

I hereby certify that on December 22, 2008 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

**RE: WATER RIGHT NO.**

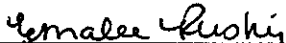
**63-31934**

**GIVENS PURSLEY LLP  
ATTN JOHN MARSHALL  
601 W BANNOCK ST  
BOISE ID 83702**

**LAKELAND VILLAGE LLC  
C/O RON BATH  
805 W IDAHO ST STE 300  
BOISE ID 83702**

**US DEPT OF INTERIOR  
BUREAU OF RECLAMATION  
1150 N CURTIS RD STE 100  
BOISE ID 83706-1234**

**REX BARRIE  
PO BOX 767  
STAR ID 83669-0767**

  
\_\_\_\_\_  
**Emalee Rushing  
Office Services Supervisor**

## **Statement of Available Procedures and Applicable Time Limits**

### **RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES** (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 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.

## MEMORANDUM

**Date:** October 31, 2007  
**To:** Water Right File 63-31934  
**From:** cpadilla  
**Re:** Permit Review

---

WD-subject to water district 63

Protest resolved through agreement-conditions added to permit.

Overlaps-none for this use

Mitigation plan pending approval through transfer process #73632.

Application is for 10 ponds in subdivision. The consumptive uses will be mitigated for by recharge.

Recommend for approval.

TO: TRANSFER FILE 73632, AND PERMIT FILES 63-31934 AND 63-32143

FROM: DANIEL A. NELSON

DATE: 10/15/07

SUBJECT: FINAL PROCESSING OF ALL 3 APPLICATIONS

The three applications mentioned above were processed and parallel processed with State Office staff and then advertised. During the advertising process, the regional staff were directed to hold all applications involved in a Snake River Basin Adjudication (SRBA) objection process. Water right 63-146 involved with transfer 73632 was objected to in the SRBA, therefore, all three of the above applications were held until a partial decree was issued on 63-146.

After the final decree was issued, we re-worked the transfer to attach the water right records to the transfer instead of the recommendation records that were used originally. We incorporated all of the final conditions agreed upon by the SRBA court into the new transfer proposal. Whereas the above applications have already gone through the parallel processing review and advertising, we determined it was not necessary to re-initiate the entire process from scratch. Therefore, we are forwarding the above three files to the State Office for approval without further review.



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](http://www.idwr.idaho.gov)

September 10, 2007

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

SPF WATER ENGINEERING LLC  
ATTN CHRISTIAN PETRICH  
600 E RIVER PARK LN STE 105  
BOISE ID 83706

*RE: APPLICATIONS FOR PERMIT 63-32143 (ROTH CONSTRUCTION) AND 63-31934 (LAKELAND VILLAGE LLC) AND TRANSFER 73632 (NEW UNION DITCH CO LTD)*

Dear Mr. Petrich:

Our office has recently reviewed and advertised applications for permit 63-32143 for Roth Construction and 64-31934 for Lakeland Village LLC. Our office has also completed our review and advertising of application for transfer 73632 for New Union Ditch LTD. During the preparation to send these applications to our State Office for final review, we discovered that the water right involved in transfer 73632, 63-146, has been objected to in the Snake River Basin Adjudication (SRBA) courts.

Whereas all three of these applications are tied to water right 63-146, we are required to hold these applications until the objections have been resolved. Therefore, these applications will be put on indefinite hold until the issues with 63-146 have been resolved.

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

Respectfully,

Daniel A. Nelson  
Sr. Water Right Agent

Cc Michael C. Creamer, Givens Pursley LLP



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

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September 10, 2007

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

GIVENS PURSLEY LLP  
ATTN MICHAEL CREAMER  
PO BOX 2720  
BOISE ID 83701

*RE: APPLICATIONS FOR PERMIT 63-32143 (ROTH CONSTRUCTION) AND 63-31934 (LAKELAND VILLAGE LLC) AND TRANSFER 73632(NEW UNION DITCH CO LTD)*

Dear Mr. Creamer:

Our office has completed our review and advertising of application for transfer 73632 for New Union Ditch LTD. Our office has also reviewed and advertised applications for permit 63-32143 for Roth Construction and 64-31934 for Lakeland Village LLC. During the preparation to send these applications to our State Office for final review, we discovered that the water right involved in transfer 73632, 63-146, has been objected to in the Snake River Basin Adjudication (SRBA) courts.

Whereas all three of these applications are tied to water right 63-146, we are required to hold these applications until the objections have been resolved. Therefore, these applications will be put on indefinite hold until the issues with 63-146 have been resolved.

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

Respectfully,

A handwritten signature in black ink that reads "Daniel A. Nelson". The signature is written in a cursive, flowing style.

Daniel A. Nelson  
Sr. Water Right Agent

Cc Christian Petrich – SPF Water Engineering

# GIVENS PURSLEY LLP

LAW OFFICES  
601 W. Barnack Street  
PO Box 2720, Boise, Idaho 83701  
TELEPHONE: 208 388-1200  
FACSIMILE: 208 388-1300  
WEBSITE: [www.givenspursley.com](http://www.givenspursley.com)

John M. Marshall  
Direct Dial: (208) 388-1270  
E-Mail: [johnmarshall@givenspursley.com](mailto:johnmarshall@givenspursley.com)

Gary G. Allen  
Kelly T. Barbour  
Christopher J. Beason  
William C. Cole  
Michael C. Creamer  
Thomas E. Dvorak  
Roy Lewis Eiguren  
Timothy P. Fearnside  
Jeffrey G. Fereday  
Melissa A. Finocchio  
Steven J. Hippler  
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Anne C. Kunkel

Jeremy G. Ladle  
Franklin G. Lee  
David R. Lombardi  
Emily A. MacMaster  
John M. Marshall  
Kenneth R. McClure  
Kelly Greene McConnell  
Cynthia A. Melillo  
Christopher H. Meyer  
L. Edward Miller  
Patrick J. Miller  
Judson B. Montgomery  
Angela K. Nelson  
Deborah E. Nelson

W. Hugh O'Riordan, LL.M.  
Kenneth L. Pursley  
Bradley V. Sneed  
H. Barton Thomas, LL.M.  
J. Will Varin  
Conley E. Ward  
Robert B. White  
  
Raymond D. Givens  
RETIRED  
  
James A. McClure  
RETIRED  
*\*Licensed in California*

August 12, 2005

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

Re: Lakeland Village – Application for Transfer of Water Right 63-146 and  
Applications for Permit Nos. 63-31934 and 63-32143  
GP File No. 4977-12

Dear Steve:

I received your letter dated July, 20, 2005, stating the Department will not process the above referenced applications until after SRBA proceedings are complete on the New Union Ditch Co. Ltd.'s water rights. I am writing to request reconsideration of this decision. I understand the Department will deviate from the general processing hold where circumstances warrant. We believe the above referenced applications meet this threshold.

**History of the applications.** Lakeland Village, LLC filed an Application for Permit No. 63-31934 in May of 2003 to appropriate ground water for aesthetic storage. Lakeland proposed mitigation for evaporative pond losses under the new permit by changing the nature of use of a portion of New Union's water right 63-146 from irrigation to ground water recharge. New Union submitted this transfer application in May 2003. Applications for Permit and coupled transfers generally are processed by the Department at the same time. In this case, however, the permit application proceeded independent of the associated transfer.

The Department advertised Application for Permit No. 63-31934 in June 2004. The Bureau of Reclamation protested the application. Over the ensuing months, the parties negotiated a settlement of the protest. The parties recently reached a final agreement resolving the protest, which also resolves in advance the Bureau's concerns with regard to the transfer application. We anticipate submitting a formal withdrawal of protest in the next several days.

Steve Lester  
August 12, 2005  
Page 2

While Lakeland and the Bureau were resolving the protest to the permit application, New Union submitted an amendment to the Application for Transfer on April 7, 2005. The amendment increased the portion of right 63-146 proposed for change from irrigation to ground water recharge to accommodate the desire of a second shareholder, Roth Construction, Inc., to construct a pond on its property adjacent to the Lakeland property. Roth Construction filed Application for Permit No. 63-32143 in conjunction with the amended transfer to appropriate ground water for the pond.

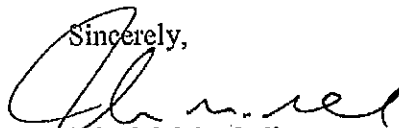
**Rationale for continued processing.** Processing of Application for Permit No. 63-31934 essentially is complete. All that remains is submittal of the formal withdrawal of protest and issuance of the permit. Typically, the processing of the related transfer application also would be nearing completion at this time.

Permit No. 63-31934 is of little value without its companion transfer that provides the required mitigation. Having processed the permit application, Department personnel are familiar with the transfer application. Department efficiencies are likely enhanced by processing the transfer application now, while Department personnel are familiar with it, rather than picking it back up in many months. Processing the transfer application now has the added benefit of clearing the way for Roth Construction, Inc., to obtain its permit and move forward with its development.

Because the transfer application is in New Union's name, I have consulted with George Transtrum, President of New Union, to ensure that it agrees that processing now is the best option. New Union has indicated its agreement by signing onto this letter below.

Thank you for your attention to this matter. If you have any questions, please call.

Sincerely,



John M. Marshall

JMM:tma  
S:\CLIENTS\4977\12\UM ltr Lester re processing transfer.DOC

New Union Ditch Company has reviewed this letter and agrees that processing the Application for Transfer of Water Right 63-146 should continue at this time without waiting for completion of SRBA proceedings.



George Transtrum, President  
New Union Ditch Company, Limited



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

October 3, 2005

E GAIL MCGARRY  
BUREAU OF RECLAMATION  
1150 N CURTIS RD STE 100  
BOISE ID 83705-5082

Re: Application for Permit No. 63-31934 in the Name of Lakeland Village, Boise Project,  
Arrowrock Division

Dear Ms McGarry:

This letter acknowledges receipt of the stipulation and withdrawal of protest of the above referenced application for permit.

The department will now continue to process this application, subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

JOHN WESTRA  
Western Regional Manager

JW:sk

Cc: MICHAEL C CREAMER ESQ  
JOHN M MARSHALL ESQ  
GIVENS PURSLEY LLP  
PO BOX 2720  
BOISE ID 83701

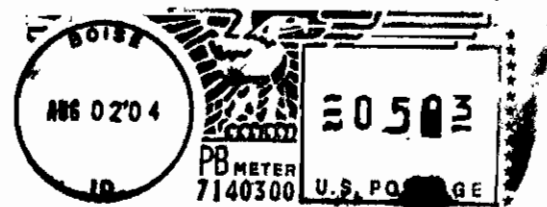
KATHLEEN MARION CARR  
FIELD SOLICITOR'S OFFICE  
960 BROADWAY STE 400  
BOISE ID 83706

IDAHO DEPARTMENT OF WATER RESOURCES  
WESTERN REGION  
2735 Airport Way  
Boise, Idaho 83705-5082

RETURN SERVICE REQUESTED

UNDELIVERABLE AS  
ADDRESSED  
NO FORWARDED  
ORDER ON FILE

POSTED  
FIRST CLASS



RECEIVED  
AUG 05 2004  
WATER RESOURCES  
WESTERN REGION

LAKELAND VILLAGE INVESTORS  
208 IDAHO ST #170  
EAGLE ID 81600

*What's this?*

FA [REDACTED]



### EXHIBIT A – Conditions

1. Right holder shall install and maintain a measuring device acceptable to the Department to regulate water that is diverted into the Lakeland Village irrigation/pond system.  
Furthermore, the right holder will ensure that U.S. Bureau of Reclamation (Reclamation) storage water will not be used for the aesthetic component of Lakeland's deliveries by reducing the total flow of water delivered by 0.02 cfs at any time that the New Union Ditch Company is receiving Reclamation storage water, and will provide proof accordingly when requested by Reclamation or the State Watermaster.

*This is cc - original of letter  
rec'd 9/27/05 - can discuss this  
cc when necessary*



# State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

July 21, 2004

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

LAKELAND VILLAGE LLC  
C/O RON BATH COLDWELL BANKERS  
805 W IDAHO ST STE 300  
BOISE ID 83702

~~208 ID ST #120~~

~~Eagle Id 83616-5000~~

PO Box 2620  
Eagle

Re: Application for Permit No. 63-31934

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of a permit referenced application.

The following are the criteria the department must consider in evaluating an application for permit (per Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under the permit?
2. Is the proposed water supply insufficient for the purpose of the proposed use?
3. Is the application made in good faith or for delay or speculation?
4. Has the applicant sufficient financial resources with which to carry out the proposed use?
5. Will the proposed use under this permit conflict with the proposed use of any other permit?
6. Will the proposed use be contrary to conservation of water resources of Idaho?

Get hunter conf. ↑  
current address

from stg John  
Marshall - email

ok  
-JR 2/16/07

Enclosed is a Notice of Prehearing Conference scheduled for Friday, September 3, 2004 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is in dispute in the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

Please contact this office if you have questions regarding this procedure.

Sincerely,

John Westra  
Western Regional Manager

JW:sk

Enclosure: Copy of protest(s)  
Notice of Prehearing Conference

Ami = CE



# United States Department of the Interior



BUREAU OF RECLAMATION  
Pacific Northwest Region  
1150 North Curtis Road, Suite 100  
Boise, Idaho 83706-1234

IN REPLY REFER TO:

PN-3110  
WTR-1.10

SEP 26 2005

RECEIVED

SEP 27 2005

WATER RESOURCES  
WESTERN REGION

Mr. John Westra  
Western Regional Manager  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705-5082

Subject: Stipulation and Withdrawal of Protest for Lakeland Village Permit No. 63-31934, Boise Project, Arrowrock Division, Idaho

Dear Mr. Westra:

Attached is a signed Stipulation and Withdrawal of Protest in the Matter of Application for Permit No. 63-31934, filed by Lakeland Village. Please return a copy of this document date stamped received by the Idaho Department of Water Resources in the enclosed stamped envelope.

Thank you for your assistance. If you have any questions, please contact Ms. Ruth Page at 208-378-5382.

Sincerely,

E. Gail McGarry  
Program Manager, Water Rights and  
Acquisition

RECEIVED  
SEP 27 2005  
WATER RESOURCES  
WESTERN REGION

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION  
FOR PERMIT NO. 63-31934

STIPULATION AND WITHDRAWAL  
OF PROTEST

**RECITALS**

1. This agreement is entered into by Lakeland Village and the United States Department of the Interior, acting through the Bureau of Reclamation ("Reclamation").
2. Lakeland Village filed Application No. 63-31934 for Permit to Appropriate Waters of the State of Idaho (the "Application") with the Idaho Department of Water Resources ("Department"). The application seeks to appropriate 272 afa of groundwater for aesthetic storage from points of diversion in the Township 4N, Range 1 E, Section 14, SWSW; Section 15 SESE, Section 23 NENW, and NWNW.
3. On June 22, 2004, Reclamation filed a protest to the Application (the "Protest").
4. To resolve the Protest the parties have negotiated conditions, attached as Exhibit A, to be included in any approval by the Department of the Application (the "Conditions").

**STIPULATION AND WITHDRAWAL OF PROTEST**

In consideration of the above recitals and with the understanding that the attached Conditions shall become part of any water right granted to Lakeland Village Application No. 63-31934, Reclamation hereby withdraws its protest to Application No. 63-31934. If the attached Conditions are not included as part of such water right, the withdrawal of said protest

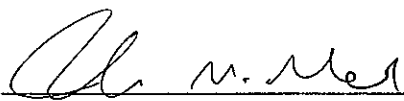
**STIPULATION AND WITHDRAWAL OF PROTEST**

shall be deemed ineffective and Application No. 63-31934 shall be processed by the Department as a contested case proceeding, pursuant to Idaho law.

Respectfully submitted,

LAKELAND VILLAGE

Dated: 9-9-2005

  
By: John M. Marshall, Esq.

U.S. BUREAU OF RECLAMATION

Dated: 9-20-2005

  
By: Elizabeth G. McGarry  
Manager  
Water Rights and Acquisitions

STIPULATION AND WITHDRAWAL OF PROTEST

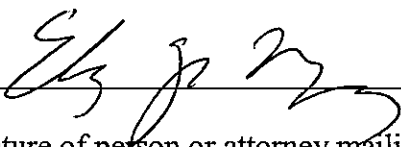
CERTIFICATE OF MAILING

I hereby certify that on this 26<sup>th</sup> day of September, 2005, I caused to be mailed, postage prepaid, a true and correct copy of the foregoing **STIPULATION AND WITHDRAWAL OF PROTEST** to the following:

Michael C. Creamer, Esq.  
John M. Marshall, Esq.  
Givens Pursely L.L.P.  
Post Office Box 2720  
Boise, ID 83701

John Westra  
Western Region, IDWR  
2735 Airport Way  
Boise, ID 83705

Kathleen Marion Carr  
Field Solicitor's Office  
960 Broadway, Suite 400  
Boise, ID 83706

  
\_\_\_\_\_  
Signature of person or attorney mailing the form

**STIPULATION AND WITHDRAWAL OF PROTEST**

### **EXHIBIT A – Conditions**

1. Right holder shall install and maintain a measuring device acceptable to the Department to regulate water that is diverted into the Lakeland Village irrigation/pond system.

Furthermore, the right holder will ensure that U.S. Bureau of Reclamation (Reclamation) storage water will not be used for the aesthetic component of Lakeland's deliveries by reducing the total flow of water delivered by 0.02 cfs at any time that the New Union Ditch Company is receiving Reclamation storage water, and will provide proof accordingly when requested by Reclamation or the State Watermaster.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

August 29, 2005

John M. Marshall  
Givens Pursley LLP  
PO Box 2720  
Boise ID 83701

RE: Lakeland Village Application For Transfer- WR 63-146  
Applications For Permit 63-31934 & 63-32143

Dear Mr. Marshall:

This letter is in response to your letters of 8/12/05 & 8/23/05 requesting our office reconsider processing of the transfer described above for the New Union Ditch Company.

Your letter of 8/12 accurately describes the status of the applications for permit, and the rationale for continued processing of the transfer. The approved permits are of little value without the related transfer completing the mitigation process for both developments. With the protest settlement of the Lakeland application completed, the total package can now move forward.

Once the Lakeland application protest withdrawal (BOR) is received by our office, your request will be honored. The transfer application for New Union Ditch Company will continue to be processed by our staff, and not placed on a "hold" status.

Should you have any questions, please contact me at the Western Regional Office, phone 334-2190.

Sincerely,

A handwritten signature in cursive script, appearing to read 'John Westra'.

John Westra, Manager  
Western Region

cc: G. Transtrum

AUG 24 2005

LAW OFFICES  
601 W. Bannock Street  
PO Box 2720, Boise, Idaho 83701  
TELEPHONE: 208 388-1200  
FACSIMILE: 208 388-1300  
WEBSITE: www.givenspursley.com

JOHN M. MARSHALL  
DIRECT DIAL: 208 388-1270  
EMAIL: johnmarshall@givenspursley.com

Gary G. Allen  
Kelly T. Barbour  
Christopher J. Beeson  
William C. Cole  
Michael C. Creamer  
Thomas E. Dvorak  
Roy Lewis Eiguren  
Timothy P. Fearnside  
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Kelly Greene McConnell  
Cynthia A. Melillo  
Christopher H. Meyer  
L. Edward Miller  
Patrick J. Miller  
Judson B. Montgomery  
Angela K. Nelson  
Deborah E. Nelson

WATER RESOURCES  
WESTERN REGION

William R. Riordan, LL.M.  
Kenneth L. Pursley  
Bradley V. Sneed  
H. Barton Thomas, LL.M.  
J. Will Varin  
Conley E. Ward  
Robert B. White  
  
Raymond D. Givens  
RETIRED  
  
James A. McClure  
RETIRED  
\*Licensed In California

August 23, 2005

Mr. Steve Lester  
Water Rights Supervisor  
Western Regional Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705-5082

Re: Lakeland Village – Application for Transfer of Water Right 63-146 and  
Applications for Permit Nos. 63-31934 and 63-32143  
Our File No. 4977-12

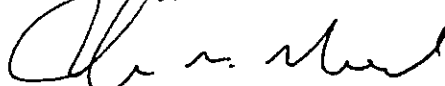
Dear Steve:

Enclosed please find a letter requesting that the Department continue processing the applications regarding the Lakeland Village and Ulmer Lane Subdivisions.

I have delayed sending the letter until I received confirmation from new Union Ditch Company that it agreed to continue processing. I have enclosed a copy of the letter that includes the original signature of George Transtrum, President of New Union, consenting to immediate processing.

Thank you for your attention to this matter.

Sincerely,



John M. Marshall

Enclosures

cc: Ron Bath  
George Transtrum

JMM:kdt SACLIENTS\4977\12\JMM Ltr to Steve Lester re Request to Process.DOC

# GIVENS PURSLEY LLP

## LAW OFFICES

601 W. Bannock Street  
PO Box 2720, Boise, Idaho 83701  
TELEPHONE: 208 388-1200  
FACSIMILE: 208 388-1300  
WEBSITE: [www.givenspursley.com](http://www.givenspursley.com)

John M. Marshall  
Direct Dial: (208) 388-1270  
E-Mail: [johnmrslull@givenspursley.com](mailto:johnmrslull@givenspursley.com)

Gary G. Allen  
Kelly T. Barbour  
Christopher J. Beeson  
William C. Cole  
Michael C. Creamer  
Thomas E. Dvorak  
Roy Lewis Eiguren  
Timothy P. Fearnside  
Jeffrey C. Fereday  
Melissa A. Finocchio\*  
Steven J. Hippler  
Karl T. Klein  
Debora K. Kristensen  
Anne C. Kunkel

Jeremy G. Ladle  
Franklin G. Lee  
David R. Lombardi  
Emily A. MacMaster  
John M. Marshall  
Kenneth R. McClure  
Kelly Greene McConnell  
Cynthia A. Melillo  
Christopher H. Meyer  
L. Edward Miller  
Patrick J. Miller  
Judson B. Montgomery  
Angela K. Nelson  
Deborah E. Nelson

W. Hugh O'Riordan, I.L.M.  
Kenneth L. Pursley  
Bradley V. Sneed  
H. Barton Thomas, I.L.M.  
J. Will Varin  
Conley E. Ward  
Robert B. White

Raymond D. Givens  
RETIRED

James A. McClure  
RETIRED  
*\*Licensed in California*

August 12, 2005

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

Re: Lakeland Village -- Application for Transfer of Water Right 63-146 and  
Applications for Permit Nos. 63-31934 and 63-32143  
GP File No. 4977-12

Dear Steve:

I received your letter dated July, 20, 2005, stating the Department will not process the above referenced applications until after SRBA proceedings are complete on the New Union Ditch Co. Ltd.'s water rights. I am writing to request reconsideration of this decision. I understand the Department will deviate from the general processing hold where circumstances warrant. We believe the above referenced applications meet this threshold.

**History of the applications.** Lakeland Village, LLC filed an Application for Permit No. 63-31934 in May of 2003 to appropriate ground water for aesthetic storage. Lakeland proposed mitigation for evaporative pond losses under the new permit by changing the nature of use of a portion of New Union's water right 63-146 from irrigation to ground water recharge. New Union submitted this transfer application in May 2003. Applications for Permit and coupled transfers generally are processed by the Department at the same time. In this case, however, the permit application proceeded independent of the associated transfer.

The Department advertised Application for Permit No. 63-31934 in June 2004. The Bureau of Reclamation protested the application. Over the ensuing months, the parties negotiated a settlement of the protest. The parties recently reached a final agreement resolving the protest, which also resolves in advance the Bureau's concerns with regard to the transfer application. We anticipate submitting a formal withdrawal of protest in the next several days.

Steve Lester  
August 12, 2005  
Page 2

While Lakeland and the Bureau were resolving the protest to the permit application, New Union submitted an amendment to the Application for Transfer on April 7, 2005. The amendment increased the portion of right 63-146 proposed for change from irrigation to ground water recharge to accommodate the desire of a second shareholder, Roth Construction, Inc., to construct a pond on its property adjacent to the Lakeland property. Roth Construction filed Application for Permit No. 63-32143 in conjunction with the amended transfer to appropriate ground water for the pond.

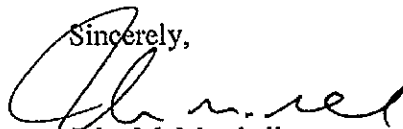
**Rationale for continued processing.** Processing of Application for Permit No. 63-31934 essentially is complete. All that remains is submittal of the formal withdrawal of protest and issuance of the permit. Typically, the processing of the related transfer application also would be nearing completion at this time.

Permit No. 63-31934 is of little value without its companion transfer that provides the required mitigation. Having processed the permit application, Department personnel are familiar with the transfer application. Department efficiencies are likely enhanced by processing the transfer application now, while Department personnel are familiar with it, rather than picking it back up in many months. Processing the transfer application now has the added benefit of clearing the way for Roth Construction, Inc., to obtain its permit and move forward with its development.

Because the transfer application is in New Union's name, I have consulted with George Transtrum, President of New Union, to ensure that it agrees that processing now is the best option. New Union has indicated its agreement by signing onto this letter below.

Thank you for your attention to this matter. If you have any questions, please call.

Sincerely,

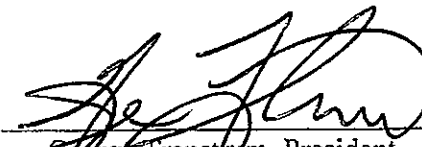
  
John M. Marshall

JMM:tma

S:\CLIENTS\4977\12UM ltr Lester re processing transfer.DOC

---

New Union Ditch Company has reviewed this letter and agrees that processing the Application for Transfer of Water Right 63-146 should continue at this time without waiting for completion of SRBA proceedings.

  
George Transtrum, President  
New Union Ditch Company, Limited



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

July 20, 2005

NEW UNION DITCH CO LTD  
C/O MIKE CREAMER  
GIVENS PURSLEY LLP  
PO BOX 2720  
BOISE ID 83701-2720

ROTH CONSTRUCTION INC  
C/O CHRISTIAN PETRICH  
SPF WATER ENGINEERING LLC  
600 E RIVER PARK LN STE 105  
BOISE ID 83706

Re: Application for Transfer of Water Right No. 63-146 and Applications for Permit Nos.  
63-31934 for Lakeland Village and 63-32143 for Ulmer Lane Townhomes

Dear Gentlemen:

The New Union Ditch Company transfer application to mitigate pending applications for permit for Lakeland Village and Roth Construction Inc. (Ulmer Lane Townhomes) cannot be processed at this time as explained below.

The transfer application describes a water right for which a Snake River Basin Adjudication (SRBA) Claim has been filed. SRBA Claims in the area affected by the transfer application are currently being reviewed. The role of the Idaho Department of Water Resources (IDWR) in the SRBA is to review claims and make recommendations regarding those claims to the SRBA Court. Recommendations are presented to the court in a Director's Report. Potentially affected parties may object to recommendations in a Director's Report. This process introduces uncertainty regarding water rights until the objection period is over.

IDWR's limited staff resources must be used to complete the remaining Director's Reports during the next year. Additionally, experience indicates that processing an application for transfer in an area where a Director's Report is being prepared can result in confusion and complications by mixing judicial (SRBA) and administrative (transfer) actions.

July 20, 2005

Page 2

The SRBA objection period for Ada County is expected to conclude around May or June of 2006. IDWR will hold the transfer application until that time and will notify you at the appropriate time to allow it to be processed. This transfer application should be one of the first processed at that time due to its original filing date in 2003.

This also means that pending applications for permit 63-31934 and 63-32143 cannot be resolved until transfer processing is successfully completed or until a suitable replacement mitigation plan is proposed and approved.

IDWR regrets the inconvenience undoubtedly caused by this necessary delay. Please contact me at 334-2190 if you have any questions in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", written in a cursive style.

Steve Lester  
Water Rights Supervisor

**Copy: BOR, Protestant in 63-31934**

CONVERSATION MEMORANDUM

DATE 7/13/05

FILE See Below ↓

NAME OF PARTY —

EMPLOYEE 82

RE: STATUS = ON HOLD AS FOLLOWS:

- ① LAKELOD VILLAGE 63-31934 } 2 Apps. for  
63-32143 } permit for pond  
② WAGER LANE TOWNHOMES ~~no # yet~~ } amenities  
= ROTH CONSTRUCTION INC.

BOTH to be mitigated by transfer Appl. for shares  
of NEW Union Ditch Co. 63-146.

Transfer originally filed 5/03 c/o Mike Gessner, attorney.

Transfer amended 4/05 c/o Mike Gessner, attorney &  
Christina Petrich, consultant.

Transfer to follow pattern of T. 70266 approved 7/04.

BUT 7/8/05 "TRANSFER HOLD - SRBA" -

delay processing until SRBA objection period  
is over ... c MAY 2006 (?).

\* \* \* Memory TX Result Report ( Jun. 20. 2005 3:33PM ) \* \* \*

1) Idaho Dept. of Water Resources  
2)

Date/Time: Jun. 20. 2005 3:32PM

| File<br>No. Mode | Destination | Pg(s) | Result | Page<br>Not Sent |
|------------------|-------------|-------|--------|------------------|
| 1381 Memory TX   | 93341918    | P. 3  | OK     |                  |

## Reason for error

E. 1) Hang up or line fail  
E. 3) No answer  
E. 5) Exceeded max. E-mail size

E. 2) Busy  
E. 4) No facsimile connection



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190  
FAX (208) 334-2348

DIRK KEMP THORNE  
Governor  
KARL I. DREHER  
Director

FAX TRANSMITTAL COVER SHEET  
FAX # (208) 334-2348DATE: 6/20/05

TO: Kathleen Carr  
Boe

FROM: L. Westra  
IDWR

## DOCUMENT DESCRIPTION:

Edits to Settlement Condition - Protest  
Lakeland Village #63-31934

TOTAL PAGES SENT: 2 + COVER SHEET

CONTACT: \_\_\_\_\_



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

FAX TRANSMITTAL COVER SHEET

FAX # (208) 334-2348

DATE: 6/20/05

TO: Kathleen Carr  
BOR  
\_\_\_\_\_

FROM: J. Westra  
IDWR  
\_\_\_\_\_

DOCUMENT DESCRIPTION: \_\_\_\_\_

Edits to Settlement Condition - Protest  
Lakeland Village #63-31934  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TOTAL PAGES SENT: 2 + COVER SHEET

CONTACT: \_\_\_\_\_

**Westra, John**

---

**From:** Westra, John  
**Sent:** Monday, June 20, 2005 3:24 PM  
**To:** Mike Creamer (E-mail)  
**Subject:** Lakeland Application #63-31934 Protest Settlement Conditions

Mike Creamer & Kathleen Carr

I and the SO allocations have review the Exhibit A Conditions related to a settlement.  
It looks fine, we just had a few minor edits.

Let me know if I can further assist.

John Westra  
IDWR



2005062015224818  
5.pdf

-Fax to K. Carr, BOR

EXHIBIT A - Conditions

- Right holder*  
1. ~~Applicant~~ shall install and maintain a measuring device <sup>acceptable to the Department</sup> to regulate water that is diverted into the Lakeland Village irrigation/pond system. Furthermore, the ~~applicant~~ <sup>right holder</sup> will ensure that U.S. Bureau of Reclamation (Reclamation) storage water will not be used for the aesthetic component of Lakeland's deliveries by reducing the total flow of water delivered ~~over the weir of the measuring device~~ by 0.02 cfs at any time that the New Union Ditch Company is receiving Reclamation storage water, and will provide proof accordingly when requested by Reclamation or the State Watermaster.

— Edits by — J. Westra, IDWR  
6/20/05

**Westra, John**

---

**From:** Keen, Shelley  
**Sent:** Monday, June 20, 2005 9:59 AM  
**To:** Westra, John  
**Subject:** RE: Approval Condition on Application 63-31934 Lakeland Sub.

John,

I haven't looked at the details of the application, but I think the concept is reasonable. I do suggest a few alterations, however. First, we won't issue a condition that refers to "applicant". We prefer saying "right holder" so that the condition can be used on the permit and subsequent license. Also, whenever we refer to a measuring device we typically want to state that it has to be acceptable to IDWR. You might try "... a measuring device acceptable to the Department to regulate water ..." in the first line. Finally, I have questions about the reference to a weir. The condition seems to assume that the measuring device will be a weir. Is that necessarily true? What if a pipeline is employed in the future? Would some other kind of device be acceptable? Is the right holder going to be able to install a weir that is sensitive enough to detect a 0.02 cfs change?

Shelley

-----Original Message-----

**From:** Westra, John  
**Sent:** Monday, June 20, 2005 7:27 AM  
**To:** Keen, Shelley  
**Subject:** Approval Condition on Application 63-31934 Lakeland Sub.

Shelley,

The attached condition has been drafted by BOR (protestant) and Lakeland Sub as a settlement. They would like this condition placed directly on the permit, rather than referenced as a separate agreement. I tend to agree as it is much cleaner, and this is directly related to regulation of the Boise River by the Watermaster. Take a look at this draft, and let me know if this is acceptable to you.

John

<< File: 20050620070951534.pdf >>

**UNITED STATES DEPARTMENT OF THE INTERIOR**

**OFFICE OF THE FIELD SOLICITOR  
550 WEST FORT STREET  
BOISE, IDAHO 83724**

**TELEFAX TRANSMISSION**

**June 14, 2005**

**To: John Westra  
Mike Creamer  
Gail McGarry**

**Fax No(s): 334-2348  
338-1300  
378-5305**

**From: Kathleen Marion Carr  
208-334-1911/work 208-334-1919/fax**

**Number of Pages to Follow: 7**

*TRANSMISSION NOTICE: This fax is intended only for the addressee(s) shown above. It may contain information that is privileged or otherwise protected from disclosure. Any use of this fax or its contents by persons other than addressee(s) is strictly prohibited. If you received this fax in error, please notify sender immediately and mail back the original to us at the address above.*

**Comments/Message:**

**Re: Lakeland Village Application for Permit 63-31934.**



## United States Department of the Interior

OFFICE OF THE SOLICITOR  
Pacific Northwest Region, Boise Field Office  
James A. McClure Federal Building & U.S. Courthouse  
MSC 020-550 West Fort Street  
Boise, Idaho 83724-0020



June 14, 2005

**Via Facsimile**

John Westra  
Western Regional Manager  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705

Re: Application for Permit #63-31934 - Lakeland Village

Dear John:

Please find enclosed the parties' proposed stipulation and letter to New Union Ditch Company. Would you please let us know if IDWR has any concerns with our proposed approach to resolve Reclamation's protest. Thanks for your consideration.

Sincerely,

Kathleen Marion Carr  
Attorney

cc: E. Gail McGarry  
Mr. Michael C. Creamer, Esq.

Kathleen Marion Carr  
Attorney  
U.S. Department of the Interior  
550 West Fort Street, MSC-020  
Boise, ID 83724  
208-334-1911/Phone  
208-334-1918/Facsimile

Attorney for United States of America, Bureau of Reclamation

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION  
FOR PERMIT NO. 63-31934

STIPULATION AND WITHDRAWAL  
OF PROTEST

**RECITALS**

1. This agreement is entered into by Lakeland Village and the United States Department of the Interior, acting through the Bureau of Reclamation ("Reclamation").
2. Lakeland Village filed Application No. 63-31934 for Permit to Appropriate Waters of the State of Idaho (the "Application") with the Idaho Department of Water Resources ("Department"). The application seeks to appropriate 274 afa of groundwater for aesthetic storage from points of diversion in the Township 4N, Range 1 E, Section 14, SWSW; Section 15 SESE, Section 23 NENW, and NWNW.
3. On June 21, 2004, Reclamation filed a protest to the Application (the "Protest").
4. To resolve the Protest the parties have negotiated conditions, attached as Exhibit A, to be included in any approval by the Department of the Application (the "Conditions").

//

//

**STIPULATION AND WITHDRAWAL OF PROTESTS**

**STIPULATION AND WITHDRAWAL OF PROTEST**

5. In consideration of the above recitals and with the understanding that the attached Conditions shall become part of any water right granted to Lakeland Village Application No. 63-31934, Reclamation hereby withdraws its protest to Application No. 63-31934. If the attached Conditions are not included as part of such water right, the withdrawal of said protest shall be deemed ineffective and Application No. 63-31934 shall be processed by the Department as a contested case proceeding, pursuant to Idaho law.

Respectfully submitted,

LAKELAND VILLAGE

Dated: \_\_\_\_\_

By: \_\_\_\_\_

U.S. BUREAU OF RECLAMATION

Dated: \_\_\_\_\_

By: Elizabeth G. McGarry  
Manager  
Water Rights and Acquisitions

**EXHIBIT A – Conditions**

1. Applicant shall install and maintain a measuring device to regulate water that is diverted into the Lakeland Village irrigation/pond system. Furthermore, the applicant will ensure that U.S. Bureau of Reclamation (Reclamation) storage water will not be used for the aesthetic component of Lakeland's deliveries by reducing the total flow of water delivered over the weir of the measuring device by 0.02 cfs at any time that the New Union Ditch Company is receiving Reclamation storage water, and will provide proof accordingly when requested by Reclamation or the State Watermaster.

CERTIFICATE OF MAILING

I hereby certify that on this \_\_\_\_\_ day of June, 2005, I caused to be mailed, postage prepaid, a true and correct copy of the foregoing **STIPULATION AND WITHDRAWAL OF PROTEST** to the following:

Michael C. Creamer, Esq.  
Givens Pursely L.L.P.  
Post Office Box 2720  
Boise, ID 83701

John Westra  
**Western Region, IDWR**  
2735 Airport Way  
Boise, Idaho 83705-50

E. Gail McGarry  
U.S. Bureau of Reclamation  
1150 North Curtis Road, Suite 100  
Boise, ID 83706

---

June 13, 2005

Mr. George Transtrum  
New Union Ditch Company  
Rocky Mountain Business Park  
1121 State Street, Suite 107  
Eagle, ID 83616-6061

Re: New Union Ditch Company Application for Transfer of Water  
Right for Lakeland Village  
Our File No. 4977-12

Dear George:

I am writing New Union Ditch Company ("New Union") concerning the Application for Transfer of Water Right ("Transfer") that New Union submitted to the Idaho Department of Water Resources ("Department") to permit the change in nature of use from irrigation to ground water recharge of 0.45 cfs of New Union's natural flow right from the Boise River. As you know, the Transfer would facilitate the construction and maintenance of several ponds by the Lakeland Village and Ulmer Lane developments on formerly-irrigated lands within New Union's service area by mitigating for the evaporative losses of exposed ground water from the ponds. The transfer will also serve to mitigate four acres of irrigation using ground water via the Ulmer Lane Pond. Lakeland Village and Ulmer Lane share a common point of delivery from the New Dry Creek/New Union main canal. This new headgate has been equipped with a staff gage by which the ditch rider can measure deliveries to these water users.

In conjunction with the Transfer, Lakeland Village and Roth Construction, Inc. each have sought permits from the Department to appropriate the ground water that accrues to the ponds in the Lakeland Village and Ulmer Lane developments, respectively. The U.S. Bureau of Reclamation ("Bureau"), which supplies storage water ("Storage") from Lucky Peak Reservoir to New Union, is requiring as a condition of its non-objection to the Applications for Permit and the Transfer, that no Storage be delivered to Lakeland Village or Ulmer Lane to provide mitigation of pond evaporation.

Lakeland Village and Roth Construction have agreed with the Bureau that a condition requiring a reduction in the amount of water delivered to their common headgate by 0.02 cfs (one miner's inch) whenever New Union is diverting Storage will satisfy the requirement that no Storage be used to mitigate evaporative losses from the ponds. This condition would not restrict

Mr. George Transtrum  
June 10, 2005  
Page 2

New Union's use of Storage nor would it prevent Lakeland Village and Ulmer Lane from using their proportionate share of New Union Storage for irrigation within their developments.

By this letter, Lakeland Village and Ulmer Lane are requesting that New Union agree to the above condition and agree to instruct the New Union ditch rider responsible for delivering water to their headgate to reduce the flow of water being delivered to Lakeland Village and Ulmer Lane under their respective New Union shares by a combined total of 0.02 cfs (one miner's inch) whenever New Union is diverting Storage, and agree that the ditch rider will be instructed to make a record in his ride books indicating when such reduction is in effect. This record to be subject to review by the Department and/or the Bureau on request.

If New Union is amenable to this condition being included in the Transfer, and to instructing its ditch rider to implement the condition, please indicate New Union's acceptance by signing below and returning this letter to me in the enclosed, self-addressed, stamped envelope. I will return a copy to you for your records.

Sincerely,

Michael C. Creamer

cc: Ron Bath  
Christian Petrich  
Kathleen Carr

MCC:kdt S:\CLIENTS\4977\12\MCC Ltr to George TRANSTRUM re Application Condition.DOC

---

New Union Ditch Company has reviewed the proposed condition for non-objection by the Bureau and agrees to instruct the ditch rider responsible for delivering water to the Lakeland Village/Ulmer Lane headgate to reduce the flow of water being delivered to Lakeland Village and Ulmer Lane under their respective New Union shares by a combined total of 0.02 cfs (one miner's inch) whenever New Union is diverting Storage, and agrees that its ditch rider will maintain a record indicating when such reduction is in effect. New Union agrees to make this record available for review by the Department and/or the Bureau on request.

---

George Transtrum, President  
New Union Ditch Company, Limited



# United States Department of the Interior

OFFICE OF THE SOLICITOR  
Pacific Northwest Region, Boise Field Office  
James A. McClure Federal Building & U.S. Courthouse  
MSC 020-550 West Fort Street  
Boise, Idaho 83724-0020



RECEIVED

MAY 05 2005

WATER RESOURCES  
WESTERN REGION

May 4, 2005

John Westra  
Western Regional Manager  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705

Re: Application for Permit #63-31934 - Lakeland Village

Dear John:

In response to your letter of April 29, 2005, the Bureau of Reclamation is currently pursuing a conditional/protest withdrawal agreement to be signed by both Reclamation and the applicant, Lakeland Village representative, Mr. Creamer.

It is my hope that this agreement will be presented to you prior to the June 15 deadline. If you have any questions, please feel free to contact me at 334-1911.

Sincerely,

Kathleen Marion Carr  
Attorney

cc: E. Gail McGarry  
U.S. Bureau of Reclamation  
Pacific Northwest Region  
1150 N. Curtis Road, Suite 100  
Boise, ID 83706-1234

Mr. Michael C. Creamer, Esq.  
Givens Pursley L.L.P.  
Post Office Box 2720  
Boise, ID 83701



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

April 29, 2005

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

Mike Creamer  
Givens Pursley  
601 W Bannock St  
PO Box 2720  
Boise, ID 83701

E. Gail McGarry  
Bureau of Reclamation  
1150 N Curtis RD Ste 100  
Boise ID 83706-1234

Kathleen Carr  
BOR Office of Field Solicitor  
Federal Bldg Rm 365  
550 W Fort St  
Boise ID 83724

RE: Application for Permit #63-31934-Lakeland Village

Dear Mr. Creamer, Ms. Carr, & Ms. McGarry:

The purpose of this letter is to review the status and negotiation progress for the above application. My notes from the September 2004 pre-hearing conference indicate that Mr. Creamer and BOR representatives were going to work out conditional language that would address the protestants concerns about usage of BOR storage water for mitigation. The last contact with you was by e-mail in early January 2005.

The Department would like to continue processing the application in a timely manner, and request your cooperation . If possible please submit one of the following by **June 15th**:

- A conditional/protest withdrawal agreement signed by protestant and applicant.
- A withdrawal of the application by the applicant.
- Request a hearing for the contested application.

If no documents/responses are received by June 15th, the Department will schedule a hearing tentively for **August 17, 2005**. Should you have any questions, please contact me at the Western Regional Office, 334-2190.

Sincerely,

John Westra, Western Regional Manager

Westra, John

---

**From:** Michael C. Creamer [mcc@givenspursley.com]  
**Sent:** Thursday, January 06, 2005 1:15 PM  
**To:** Westra, John  
**Cc:** Kathleen Carr  
**Subject:** Re: Protested Application 63-31934 Lakeland Village

John:

Kathleen and I have traded correspondence on this and I owe her a response, which I will try to provide next week. Unfortunately I have been distracted by some other pressing matters recently. I expect Kathleen and I will be able to advise you whether we need to proceed to hearing shortly.

Sincerely,

Mike Creamer

--- Original Message---

To: "Mike Creamer (E-mail)" <mcc@givenspursley.com>  
From: "Westra, John" <John.Westra@idwr.idaho.gov>  
Sent: 1/05/2005 12:14PM  
Subject: Protested Application 63-31934 Lakeland Village

>> Mike,  
>>  
>> Could you update me on the status of your negotiations with Kathleen Carr  
>> BOR  
>> on this application. My notes from the conference indicate you and Kathleen  
>> would work on some suitable condition language.  
>>  
>> John Westra  
>>

## Westra, John

---

**From:** Kathleen Marion Carr [kmarioncarr@yahoo.com]  
**Sent:** Thursday, January 06, 2005 6:16 PM  
**To:** Michael C. Creamer; Westra, John  
**Cc:** Kathleen Carr  
**Subject:** Re: Protested Application 63-31934 Lakeland Village

thanks for the update - kmc

--- "Michael C. Creamer" <mcc@givenspursley.com>  
wrote:

> John:  
>  
> Kathleen and I have traded correspondence on this  
> and I owe her a response, which I will try to  
> provide next week. Unfortunately I have been  
> distracted by some other pressing matters recently.  
> I expect Kathleen and I will be able to advise you  
> whether we need to proceed to hearing shortly.  
>  
> Sincerely,  
>  
> Mike Creamer  
>  
>  
> --- Original Message---  
> To: "Mike Creamer (E-mail)" <mcc@givenspursley.com>  
> From: "Westra, John" <John.Westra@idwr.idaho.gov>  
> Sent: 1/05/2005 12:14PM  
> Subject: Protested Application 63-31934 Lakeland  
> Village  
>  
> >> Mike,  
> >>  
> >> Could you update me on the status of your  
> negotiations with Kathleen Carr  
> >> BOR  
> >> on this application. My notes from the conference  
> indicate you and Kathleen  
> >> would work on some suitable condition language.  
> >>  
> >> John Westra  
> >>  
>  
>  
>

---

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around  
<http://mail.yahoo.com>

**Westra, John**

---

**From:** Westra, John  
**Sent:** Wednesday, January 05, 2005 12:15 PM  
**To:** Mike Creamer (E-mail)  
**Subject:** Protested Application 63-31934 Lakeland Village

Mike,

Could you update me on the status of your negotiations with Kathleen Carr BOR on this application. My notes from the conference indicate you and Kathleen would work on some suitable condition language.

John Westra

State of Idaho  
Department of Water Resources

## RECOMMENDATION OF WATERMASTER

Application Number: 63-31934Applicant's Name: Lakeland Village, 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:Standard Watermaster Condition  
& Enforcement of Mitigation Planc) ☐ I oppose approval of this application for the following reasons:

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---

---

d) Additional Comments:

---

---

---

Dated this 29 day of November 2004Water District Number: 63 Watermaster's Signature: Lee Luein

Use back side of this page if you need more space

## **Prehearing-Conference Notes Lakeland Village 63-31934**

From: J. Westra  
Date: 9/3/04

Location: Western Regional Office  
Attendance: see roster sheet

The conference began with Mr. Creamer presenting the project. There are 10 ponds that will be excavated. Several of the ponds already exist and are utilized for irrigation regulation. Irrigation shares come from New Dry Creek, Union Ditch, and Boise Valley Irrigation.

The application is for aesthetic storage with no diversion away from the ponds. Mr. Creamer emphasized the project would use no Bureau storage water, and that when the ditch company went on storage, the project deliveries would be cut back to the appropriate percentage.

Catherine Carr of the Bureau had concerns about the accountability of not using storage. Many ditch companies take the full delivery from the Boise River, and let the water flow thru their system not doing a lot of ditch regulation. The ditch rider would have to be regulated specific to the Lakeland diversion. Measurement provisions must be in place.

After some lengthy discussion regarding terms for an agreement, both sides felt something addressing the following conditions might be common ground:

- Does not authorize use of BOR Luck Peak storage WR #..... for mitigation
- Measurement would be required from the ditch

Mike Creamer was going to investigate the measurement issue with his clients. BOR and Mr. Creamer would work together to develop acceptable conditions for a protest settlement. Both sides appeared close together on an agreement.

**IDAHO DEPARTMENT OF WATER RESOURCES**  
**2735 AIRPORT WAY, BOISE, IDAHO 83705**

**Conducted by: John Westra**

NAME \_\_\_\_\_

## ADDRESS

**PHONE**

|                      |                   |          |
|----------------------|-------------------|----------|
| Mike Creamer         | Givens Puskay     | 388-1200 |
| Kathleen Marion Carr | Dept. of Interior | 334-1911 |
| Ruth L Page          | BOR               | 378-5382 |



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

July 21, 2004

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

LAKELAND VILLAGE LLC  
C/O RON BATH COLDWELL BANKERS  
805 W IDAHO ST STE 300  
BOISE ID 83702

Re: Application for Permit No. 63-31934

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to the above-referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (per Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

**Enclosed is a Notice of Prehearing Conference scheduled for Friday, September 3, 2004 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705.** At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is in dispute in the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

Please contact this office if you have questions regarding this procedure.

Sincerely,

John Westra  
Western Regional Manager

JW:sk

Enclosure: Copy of protest(s)  
Notice of Prehearing Conference



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

July 21, 2004

**DIRK KEMPTHORNE**  
Governor

**KARL J. DREHER**  
Director

US BUREAU OF RECLAMATION  
E GAIL MCGARRY PN 1300  
1150 N CURTIS RD STE 100  
BOISE ID 83706-1234

Re: Application for Permit No. 63-31934 in the Name of Lakeland Village LLC

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for Friday, September 3, 2004 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest prior to the prehearing conference. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

If this office can be of further assistance, please contact us.

Sincerely,

JOHN WESTRA  
Western Regional Manager

JW:sk

Encl: Copy of Application  
Notice of Prehearing Conference

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

**IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 63-31934 IN THE )  
NAME OF LAKELAND VILLAGE LLC )**

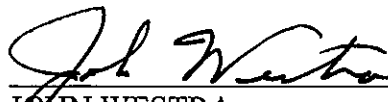
**NOTICE OF PREHEARING  
CONFERENCE**

On May 16, 2003 Lakeland Village LLC filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by the Bureau of Reclamation.

IDWR has scheduled a prehearing conference for the protest to be held on **Friday, September 3, 2004 at 10:00 a.m. at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules of Water Appropriation of the Department of Water Resources.

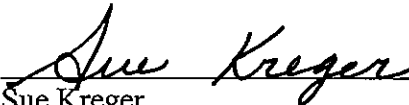
The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise IDWR at least ten (10) days prior to the conference.

Dated this 21<sup>st</sup> day of July 2004.

  
\_\_\_\_\_  
JOHN WESTRA  
Western Regional Manager

**CERTIFICATE OF MAILING**

I hereby certify that on the 22<sup>nd</sup> day of July 2004, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to those listed:

  
Sue Kreger  
Administrative Assistant

LAKELAND VILLAGE LLC  
C/O RON BATH COLDWELL BANKERS  
805 W IDAHO ST STE 300  
BOISE ID 83702

JOHN MARSHALL  
GIVENS PURSLEY LLP  
PO BOX 2720  
BOISE ID 83701-2720

E GAIL MCGARRY PN 3100  
BUREAU OF RECLAMATION  
1150 N CURTIS RD STE 100  
BOISE ID 83706-1234

## **CONFERENCE AND HEARING PROCEDURE**

### **APPLICATION FOR PERMIT**

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

### **BURDEN OF PROOF**

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

### **PROCEDURE**

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

## **CONFERENCE**

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

## **HEARING**

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a preliminary order for the Director's consideration. Parties can file exceptions to a preliminary order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a preliminary order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

## **EXHIBITS**

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

## **AMERICANS WITH DISABILITIES ACT**

Any hearing scheduled will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

RECEIVED  
JUN 22 2004

WATER RESOURCES  
WESTERN REGION

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

RECEIVED

JUN 21 2004

Department of Water Resources

C074269

This form may be used to file a protest with the department under section 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains all the necessary information.

1. Matter being protested: Application for Permit No. 63-31934 in the name of Lakeland Village LLC, C/O Ron Bath, 805 W Idaho Street, Ste. 300, Boise, ID, 83702

2. Name of Protestant: United States Department of Interior Bureau of Reclamation

3. Protestant's representative for service (if different than Protestant):

E. Gail McGarry, Program Manager, Water Rights and Acquisitions, Bureau of Reclamation, Pacific Northwest Region

4. Service mailing address:

E. Gail McGarry, PN-3100, Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, ID 83706-1234

5. Service telephone number: (208)378-5306

6. Basis of protest (including statement of facts and law upon which the protest is based):  
Proposed use will cause injury to Reclamation's Boise Project water rights.

7. What would resolve your protest?

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 21<sup>st</sup> day of June, 2004

United States, Protestant

E. Gail McGarry

PROTESTANT'S REPRESENTATIVE

**Certificate of Service**

The undersigned does hereby certify that on this 21<sup>st</sup> day of June, 2004, he or she caused a true and correct copy of the Protest Application for Permit No. 63-31934 transmitted by the following means:

Original hand delivered to:  
Idaho Department of Water Resources  
Attn: Director  
1301 North Orchard  
Boise, Idaho 83706-2237

U.S. mail to:

Mr. Ron Bath  
805 W. Idaho Street, Ste. 300  
Boise, ID 83702

John Marshall  
Attorney  
Givens Pursley, LLP  
P.O. Box 2720  
Boise, ID 83701-2720

A handwritten signature in cursive script, appearing to read "E. J. Marshall", is written over a horizontal line.

# The Idaho Statesman

P.O. Box 40, Boise, Idaho 83707-0040

## LEGAL ADVERTISING PROOF OF PUBLICATION

|                                                                         |         |                           |                  |
|-------------------------------------------------------------------------|---------|---------------------------|------------------|
| Account #                                                               | DTI#    | Identification            | Amount:          |
| 047628                                                                  | 1095062 | NOTICE OF APPLICATION     | \$243.00         |
| Attention:                                                              | P.O. #  | Run Dates                 |                  |
| SUE KREGER                                                              |         | JUNE 3, 10, 2004          |                  |
| IDAHO DEPT. WATER RESOURCES WEST<br>2735 AIRPORT WY.<br>BOISE, ID 83705 |         | Number of Lines<br>2 X 68 |                  |
|                                                                         |         | Affidavit<br>1            | Legal #<br>19592 |

RECEIVED

JUN 14 2004

WATER RESOURCES  
WESTERN REGION

### LEGAL NOTICE

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

63-31934  
LAKELAND VILLAGE LLC  
C/O RON BATH  
805 W IDAHO ST STE 300  
BOISE ID 83702

Point(s) of Diversion SWSW S14 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion L1 (SESE) S15 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion L1 (SESE) S15 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion L3 (NENW) S23 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion L3 (NENW) S23 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion L4 (NWNW) S23 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion L4 (NWNW) S23 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion L4 (NWNW) S23 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion SWSW S14 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Point(s) of Diversion SWSW S14 T04N R01E ADA County Source GROUND WATER

Tributary To BOISE RIVER  
Use: AESTHETIC STORAGE 01/01 To 12/31 272 AFA

Total Diversion: 272 AFA

Date Filed: 05/06/2003

Place Of Use: AESTHETIC STORAGE

T04N R01E S14 SWSW

T04N R01E S15 SESE Lot 1

T04N R01E S23 NENW Lot 3 NWNW Lot 4

Remark: Mitigation is proposed for consumptive use of shallow ground water considered tributary to the Boise River.

Use is for 10 water amenity ponds at Lakeland Village/Lakeland Estates.  
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 Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/21/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Pub. Jun. 3,10, 2004

19592

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

TWO

☒ consecutive weekly ☐ single

☐ consecutive daily ☐ odd skip  
insertion(s)

beginning issue of: JUNE 3, 2004

ending issue of: JUNE 10, 2004

*Janice Hildreth*

STATE OF IDAHO )  
.ss

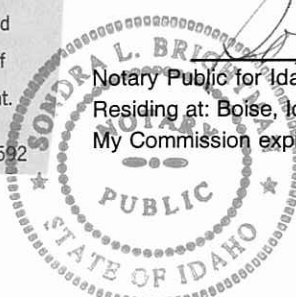
COUNTY OF ADA )

On this 10 day of JUNE in the year of 2004  
before me, a Notary Public, personally appeared before me  
Janice Hildreth known or identified to me to be the person  
whose name subscribed to the within instrument, and being  
by me first duly sworn, declared that the statements therein  
are true, and acknowledged to me that she executed the same.

Notary Public for Idaho

Residing at: Boise, Idaho

My Commission expires: 6/20/06



**Kreger (Taylor), Sue**

---

**To:** Wd63@iglide.net  
**Subject:** comment letters

IDAHO DEPARTMENT OF WATER RESOURCES  
WESTERN REGION  
2735 AIRPORT WAY  
BOISE ID 83705

May 27, 2004

LEE SISCO  
WATERMASTER DIST. NO. 63  
6616 OVERLAND RD  
BOISE ID 83709

Re: Application(s) for Water Right(s)

Dear Watermaster:

Attached are copies of one or more applications. Also attached is a form for your recommendation concerning these application(s).

Please review the application(s) that are in your area. We must have your comments within two weeks. If you have any questions or need information, feel free to contact this office at 334-2190.

Sincerely,

Sue Kreger  
(208) 334-2190  
Id Dept Water Resources  
skreger@idwr.state.id.us



63-31934 &  
EXHIBITS.pdf



Copy of  
commendation of Wa

# GIVENS PURSLEY LLP

## LAW OFFICES

277 North 6th Street, Suite 200  
PO Box 2720, Boise, Idaho 83701  
TELEPHONE: 208 388-1200  
FACSIMILE: 208 388-1300  
WEBSITE: [www.givenspursley.com](http://www.givenspursley.com)

Direct Dial: (208) 388-1270  
E-Mail: [jmm@givenspursley.com](mailto:jmm@givenspursley.com)

Gary G. Allen  
Christopher J. Beeson  
Jessica M. Borup  
William C. Cole  
Michael C. Creamer  
Emily MacMaster Durkee  
Thomas E. Dvorak  
Roy Lewis Eiguren  
Timothy P. Fearnside  
Jeffrey C. Fereday  
Steven J. Hippler  
Karl T. Klein  
Debora K. Kristensen  
Anne C. Kunkel  
Deborah E. Nelson

Franklin G. Lee  
David R. Lombardi  
D. David Lorello, Jr.  
Kimberly D. Maloney  
John M. Marshall  
Kenneth R. McClure  
Kelly Greene McConnell  
Cynthia A. Melillo  
Christopher H. Meyer  
Kendall L. Miller  
L. Edward Miller  
Patrick J. Miller  
Judson B. Montgomery  
Angela K. Nelson  
W. Hugh O'Riordan

Michael C. Orr  
Kenneth L. Pursley  
Bradley V. Sneed  
H. Barton Thomas  
Conley E. Ward  
Robert B. White

Raymond D. Givens  
James A. McClure  
Stephanie C. Westermeier  
OF COUNSEL

John A. Miller, LL.M. \*  
TAX CONSULTANT

\*Licensed in Kentucky only

May 15, 2003

## VIA HAND DELIVERY

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

Re: New Union Ditch Company – Application for Transfer of Water Right  
Lakeland Village, LLC – Application for Permit  
Our File: 4977-12

Dear Steve:

I am enclosing two related applications for processing. The first is an application for permit to appropriate ground water in aesthetic ponds. The second is a transfer application that will serve as mitigation for the proposed permit. Also enclosed is a check in the amount of \$580 to cover the filing fee for said applications. This covers the \$330 fee for the application for permit and \$250 for the application for transfer.

Please call me if you have any questions.

Sincerely,



John M. Marshall

JMM/tns

Enclosures: 1) New Union Ditch Company's Application for Transfer of Water Right  
2) Lakeland Village, LLC's Application for Permit

cc: Ron Bath

George Transtrum

S:\CLIENTS\4977\12JMM to IDWR re filing applications.DOC

**IDAHO DEPARTMENT OF WATER RESOURCES  
WESTERN REGION  
2735 AIRPORT WAY  
BOISE ID 83705**

May 27, 2004

**Legal Notice Department**  
IDAHO STATESMAN  
PO BOX 40  
BOISE ID 83707

RE: Application for Permit No. 63-31931 and 63-31934

**Dear LEGAL NOTICE DEPARTMENT:**

Enclosed you will find legal notices which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notices 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 06/21/2004. Your cooperation is appreciated.

Sincerely

Sue Kreger  
Administrative Assistant

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

63-31934

LAKELAND VILLAGE LLC  
C/O RON BATH  
805 W IDAHO ST STE 300  
BOISE ID 83702

|                          |                   |                |           |            |                     |
|--------------------------|-------------------|----------------|-----------|------------|---------------------|
| Point(s) of Diversion    | SWSW              | S14            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | L1 (SESE)         | S15            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | L1 (SESE)         | S15            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | L3 (NENW)         | S23            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | L3 (NENW)         | S23            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | L4 (NWNW)         | S23            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | L4 (NWNW)         | S23            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | L4 (NWNW)         | S23            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | SWSW              | S14            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Point(s) of Diversion    | SWSW              | S14            | T04N R01E | ADA County | Source GROUND WATER |
| Tributary To BOISE RIVER |                   |                |           |            |                     |
| Use:                     | AESTHETIC STORAGE | 01/01 To 12/31 |           |            | 272 AFA             |
| Total Diversion:         |                   |                |           |            | 272 AFA             |

Date Filed: 05/06/2003

Place Of Use: AESTHETIC STORAGE

T04N R01E S14 SWSW

T04N R01E S15 SESE Lot 1

T04N R01E S23 NENW Lot 3 NWNW Lot 4

Remark: Mitigation is proposed for consumptive use of shallow ground water considered tributary to the Boise River.  
Use is for 10 water amenity ponds at Lakeland Village/Lakeland Estates.

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 Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/21/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho Statesman on June 3 and 10, 2004.