

MEMORANDUM

Date: June 16, 2006
To: Water Right File 95-8447
From: eretelle
Re: reduction of annual volume

The protest resolution agreement for application 95-09320 requires the annual volume of this right be reduced to 200 af/year. I reduced the annual volume from 255.6 af to 200 af. A copy of the agreement follows.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 95-8447

WATER RIGHT NUMBER: 95-8447

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HARBOR VIEW ESTATES WATER AND SEWER DISTRICT C/O HOA ADMINISTRATION 296 W SUNSET BLVD, SUITE 11 COEUR D ALENE, ID 83815 (208)765-5600
Original Owner	HARBOR VIEW ESTATES PO BOX 1506 COEUR D ALENE, ID 83814

Priority Date: 06/26/1984

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
COEUR D ALENE LAKE	SPOKANE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>
MUNICIPAL	01/01 to 12/31	0.390 CFS
	<u>Total Diversion:</u>	0.390 CFS

Reduced

<u>Annual Volume</u>
200.00 AF
200.00 AF

Location of Point(s) of Diversion

COEUR D ALENE LAKE L5 (NW1/4NW1/4) Sec. 6, Twp 49N, Rge 03W, B.M.
KOOTENAI County

Place of Use

MUNICIPAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
49N 03W 6						X L 5											
49N 04W 1	X L 1	X L 2			X L 3												
50N 04W 35	X L 1	X L 2	X	X					X				X			X	
50N 04W 36						X L 1			X L 2	X L 3							

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 95-8447

1. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
2. 126 Place of use is within the service area of Harbor View Estates Water and Sewer District as provided for under Idaho law. The place of use is generally located within Section 6, Township 49N, Range 3W; Section 1, Township 49N, Range 4W; Sections 35 and 36, Township 50N, Range 4W.
3. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Remarks:Comments:

1. pskaggs 6/1/2004 3:12:16 PM Transferred Right
 Comment: This is now an approved transfer, transfer number = 71095

2. eretelle 6/16/2006 reduction of annual volume
 Comment: The protest resolution agreement for application 95-09320 requires the annual volume of this right be reduced to 200 af/year. I reduced the annual volume from 255.6 af to 200 af. A copy of the agreement follows.

Dates and Other Information:

Licensed Date: 12/31/1998
 Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal:
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Decree Defendant:
 Decree Plaintiff:
 Civil Case Number:
 Judicial District:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

**SETTLEMENT AGREEMENT BETWEEN HARBOR VIEW ESTATES WATER AND
SEWER DISTRICT AND THE KOOTENAI ENVIRONMENTAL ALLIANCE IN
REGARDS TO IDWR APPLICATION FOR PERMIT NO. 95-9320**

This Settlement Agreement (Agreement) is entered into by and between the Kootenai Environmental Alliance (KEA) and Harbor View Estates Water and Sewer District (Harbor View) to resolve disputes regarding IDWR Application for Permit No. 95-9320. In consideration of the mutual promises specified herein and by conditioning their performance under this Agreement upon satisfaction of the identified conditions precedent, and for other good and valuable consideration, the Parties agree as follows:

A. Scope of Agreement

This Agreement is intended to settlement all matters related solely to the protest filed by KEA of Harbor View's water right application filed with IDWR (Permit No. 95-9320).

B. Actions of Harbor View

Under the terms of this Agreement, Harbor View agrees to undertake the following actions:

1. Submit a request to Idaho Department of Water Resources (IDWR) to relinquish 55.60 acre-feet from water right license 95-8447.
2. Submit an amended IDWR Application for Permit 95-9320 for 0.42 cfs for municipal, which states that the combined total of water right license 95-8447 and this Application for Permit No. 95-9320 are not to exceed 200 acre feet per annum.
3. Implement a rate schedule that encourages water conservation.
4. Make available, through existing reports already provided to the State of Idaho, on an annual basis, data on the water withdrawn from the lake. Currently that data is provided monthly to DEQ via the Turbidity Report. If in the future the State of Idaho also requires data on distribution (consumption), then that data will also be made available to KEA.
5. Encourage residents to install moisture sensors as an integral part of the constructed automatic irrigation systems on their property. In the alternative, encourage residents to install rain sensors. Recommend to those who do not have automated irrigation systems to install hose bib timers. Note that the preferred water conservation device is a moisture sensor.
6. Encourage property owners not to irrigate during the high evaporation times between 10 a.m. and 8 p.m., and to water only every other day, or less frequently as actually needed.

C. Mutual Actions

The Parties agree to jointly file a notice of settlement, a copy of this Agreement, and a conditional motion to withdraw protest requesting that IDWR issue a water right that:

1. Incorporates the terms of the amended water right application described in section B (1)(2); and
2. References this Agreement and includes a copy of this Agreement in the permit file.

The conditional motion to withdraw protest shall be conditioned upon the acceptance and inclusion of the terms set forth in that section by IDWR. The Parties further agree not to protest or otherwise challenge the terms of IDWR's water right permit should the terms of that permit be issued in a manner consistent with this Agreement.

KEA/HARBOR VIEW SETTLEMENT AGREEMENT

COPY

D. Actions of KEA

In consideration for the actions identified above and upon the issuance of a final water rights permit to Harbor View that incorporates the terms set forth in section C, KEA agrees to a full and final dismissal of its protest.

F. Non-Severability

The paragraphs of this Agreement are not severable. This Agreement is executed on the understanding that each paragraph is in consideration of the others.

G. Good Faith

The Parties to this Agreement agree to act in good faith and make all reasonable efforts to satisfy the conditions of the Agreement.

H. Successors and Assigns

This Agreement will be binding and will inure to the benefit of the Parties and their respective heirs, legal representatives, successors and permitted assigns, except as restricted by this Agreement.

I. Authorizations

All individuals executing this Agreement and other documents on behalf of the respective Parties certify and warrant that they have the capacity and have been duly authorized to so execute the documents on behalf of the Party so indicated.

J. Advice of Attorneys

Each Party represents and warrants that in executing this Agreement, each has been advised by or has had an opportunity to be advised by independent legal counsel. Each party has read the terms of this Agreement and understands their consequences. Each Party further acknowledges and represents that, in executing this Agreement, it has not relied on any inducements, promises or representations made by any other Party or its representatives, except as otherwise stated in this Agreement.

K. Entire Agreement and Amendment

With respect to the issues considered herein, this Agreement contains the entire understanding and agreement of the Parties. There have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature binding except as stated in this Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the Parties to this Agreement and by no other means. An amendment to the Agreement is binding only on the Parties that execute the Amendment. Each Party waives its right to claim, contest or assert that this Agreement was modified, cancelled, superseded or changed by any oral agreement, course of conduct, waiver, or estoppel.

For the Kootenai Environmental Alliance

Barry Rosenberg
Barry Rosenberg

4/25/06
Date

For Harbor View Water and Sewer District

Mike Anderson
Mike Anderson

4-28-06
Date

HARBOR VIEW ESTATES WATER & SEWER DISTRICT
C/O HOA ADMINISTRATION
296 W. SUNSET BLVD., SUITE 11
COEUR D'ALENE, IDAHO 83815
TELEPHONE: 208-765-5600

COPY

May 3, 2006

Idaho Department of Water Resources
Attn: Bob Haynes
1910 Northwest Blvd.
Coeur d'Alene, ID 83814

Dear Sir:

The attached Settlement Agreement between our District and Kootenai Environmental Alliance reflects the terms of our agreement regarding our recent recent for additional water rights (cfs).

The Harbor View Estates Water & Sewer District agrees to relinquish 55.60 acre-feet of water from license 95-8447, thereby retaining rights to 200 acre-feet and .39 cfs. With respect to license 95-9320, we will receive an additional .42 cfs; thus the total for the two licenses will be 200 acre-feet and .81 cfs. We have also agreed to encourage all users to follow an array of water conservation techniques.

Please call me at 664-1498 if you have any questions.

Sincerely,



Michael C. Anderson
Board of Commissioners

cc: Barry Rosenberg

RELINQUISHMENT OF A PORTION OF WATER RIGHT NO. 95-8447
IN LIMITING CONDITIONS FOR 95-8447 & 95-9320

To Whom It May Concern:

Harbor View Estates Water and Sewer District relinquishes to the State of Idaho all their water right, title and interest to **55.6 AF** of Water Right No. 95-8447. 95-8447 & 95-9320 will be limited to a total of **200 AF** when combined.

I, Michael C. Anderson, do solemnly swear or affirm that I
Name

Am President, Bd of Comm of Harbor View Estates Water and Sewer District.
Title

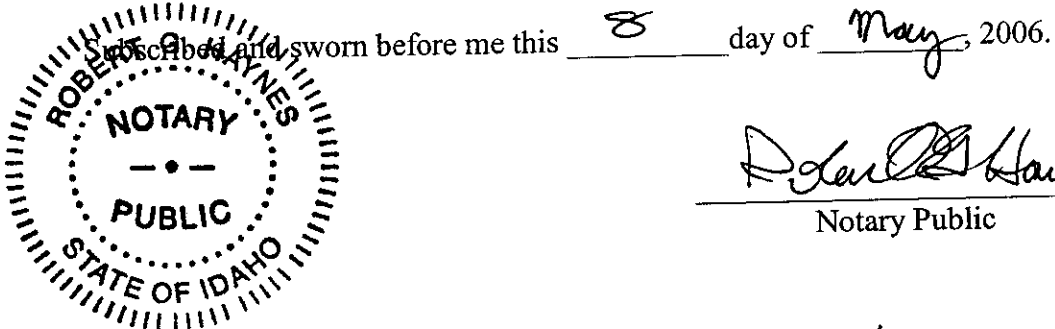
Signed at Coeur d'Alene this 8th day of May, 2006.

COPY

President HVE. WESD Bd. of Comm.
Title and Organization

Michael C. Anderson
Signature of Agent

State of Idaho)
County of Kootenai) SS.



Robert A. Haynes
Notary Public

Residing at CD #A
My Commission Expires 11/10/2010