

Miller, Nick

From: Miller, Nick
Sent: Monday, October 02, 2023 3:49 PM
To: Bryce Farris (bryce@sawtoothlaw.com); Murray Feldman
Cc: Resortcabins@gmail.com; Dennis Largent
Subject: Conditional Withdrawal of Protest 65-24195 (Terrace Lakes Recreational Ranch)
Attachments: 10022023_TLRR_Draft.pdf

Please see the attached letter regarding this matter.

Nick Miller
Manager, IDWR Western Region



IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

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Governor Brad Little

Director Mathew Weaver

October 2, 2023

TERRACE LAKES RECREATION RANCH INC
c/o S. BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE, ID 83702-7067
VIA Email to: bryce@sawtoothlaw.com

TERRACE LAKES WATER CO
c/o MURRAY D. FELDMAN
HOLLAND & HART LLP
PO BOX 2527
BOISE, ID 83701-2527
VIA Email to: mfeldman@hollandhart.com

RE: Application for Permit 65-24195 (Terrace Lakes Recreation Ranch Inc)

Dear Parties:

The Department of Water Resources acknowledges receipt on September 21, 2023, of *Stipulation to Resolve Protest* ("Stipulation") in the above-referenced matter. The Stipulation resolves the protest filed against the application by Terrace Lakes Water Company if approval of the permit application is conditioned as provided in the Stipulation.

In any conditional withdrawal, the Department must review the agreement to ensure the conditions to be included in an approval are acceptable. Further, the Department may substitute a standard condition of the Department with essentially the same language and intent, or it may modify the conditions as written to fit the approval format, reduce ambiguity, or to otherwise prevent conflicting interpretations. The Stipulation includes three components that are to be addressed by the Department as conditions on the face of an approval as well as a water delivery agreement that is the responsibility of the parties to accomplish and enforce.

The enclosed draft permit approval incorporates the Department's standard conditions, as well as conditions pursuant to the Stipulation. The conditions proposed in the Stipulation are referenced below, along with some discussion of any changes the Department has made to the proposed language.

- Condition A clarifies that language used in the Technical Memorandum submitted with the application is modified by the Stipulation. This proposed condition is self-executing and has not been included on the face of the draft permit approval, except by reference through inclusion of the Department's standard condition that refers to the Stipulation (condition 4 on the draft approval document), and as documented in this letter. The

Stipulation, with attached delivery agreement, and this letter will be retained in the Department's water right file for 65-24195.

- Condition B is also self-executing and is incorporated in the draft approval in the form of the proposed place of use legal description, informational map, and descriptive language included as condition 3 on the draft approval.
- Condition C references the private agreement between the parties that governs the use of diversion and delivery system. This proposed condition is incorporated in the draft permit approval as the Department's standard condition referencing private agreements (included as condition 4 on the draft approval) and supported by the standard condition of the Department that the permit does not grant a right of way (condition 5). Again, a copy of the delivery agreement is attached to the Stipulation and will be retained in the Department's water right file for 65-24195.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your settlement, please contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. Note that you may file a petition for reconsideration within 14 days after the Department issues a preliminary order approving the permit.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,



Nick Miller
Regional Manager

Enclosure

CC via email to:

Terrace Lakes Recreation Ranch Inc - resortcabins@gmail.com

Terrace Lakes Water Co - dlargent@terracelakeswater.com

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-24195

DRAFT

Priority: November 29, 2022

Maximum Diversion Rate: 0.07 CFS

This is to certify that

TERRACE LAKES RECREATION RANCH INC 101 HOLIDAY DR GARDEN VALLEY ID 83622-5031

has applied for a permit to appropriate water from:

Source : GROUND WATER

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
COMMERCIAL	01/01 to 12/31	0.07 CFS

Location of Point(s) of Diversion

GROUND WATER	L4 (NW¼ NW¼),	Sec. 3,	Twp 09N, Rge 04E, B.M.	BOISE County
GROUND WATER	NW¼ NE¼,	Sec. 33,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	SW¼ SE¼,	Sec. 28,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	L4 (SE¼ SE¼),	Sec. 28,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	L1 (NE¼ NE¼),	Sec. 33,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	NW¼ NW¼,	Sec. 34,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	NW¼ NW¼,	Sec. 34,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	SE¼ SW¼,	Sec. 28,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	L4 (NW¼ NW¼),	Sec. 3,	Twp 09N, Rge 04E, B.M.	BOISE County
GROUND WATER	L4 (NW¼ NW¼),	Sec. 4,	Twp 09N, Rge 04E, B.M.	BOISE County
GROUND WATER	NW¼ SE¼,	Sec. 33,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	L3 (NE¼ SE¼),	Sec. 33,	Twp 10N, Rge 04E, B.M.	BOISE County
GROUND WATER	SE¼ SW¼,	Sec. 28,	Twp 10N, Rge 04E, B.M.	BOISE County

Place of Use: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	04E	33		X		X										X	X		
						L2													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2024**.
2. Subject to all prior water rights.
3. Commercial use is for 1 motel, 2 cabins, 1 pool with restrooms and showers, 2 golf course restroom and drinking fountain locations, and 1 lodge.
4. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-24195

Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

5. This right does not grant any right-of-way or easement across the land of another.
6. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this _____ day of _____, 20____.

DRAFT

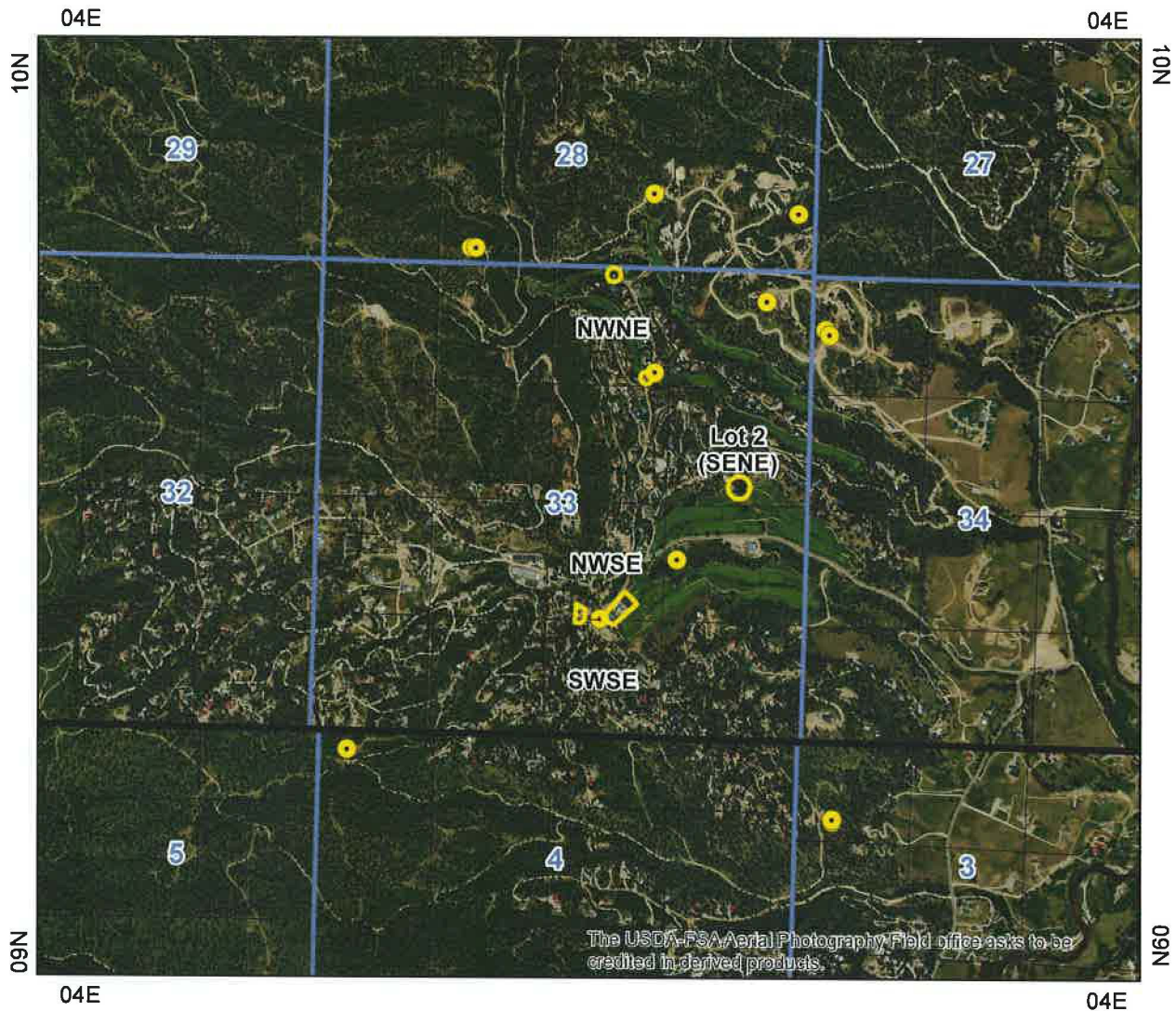
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-24195

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



0 0.225 0.45 0.9 Miles

- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Point of Diversion

