

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-123E V1

WATER RIGHT NUMBER: 63-123E V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CAPITOL VIEW IRRIGATION INC C/O PETE NEWTON PO BOX 208 EAGLE, ID 83616 (208)939-7292

Priority Date: 06/01/1864

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	7.000 CFS	
	<u>Total Diversion:</u>	7.000 CFS	

Location of Point(s) of Diversion

BOISE RIVER	NE1/4SE1/4NE1/4	Sec. 5,	Twp 03N,	Rge 02E, B.M.
ADA County				

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	01E	32		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
05N	01E	33			X				X	X	X	X	X	X	X	X	X	X	
05N	01E	34			X	X					X	X	X	X		X			

Total Acres: 682

Conditions of Approval:

1. F01 WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL
2. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 682 ACRES WITHIN THE BOUNDARY OF THE CAPITAL VIEW IRRIGATION DISTRICT

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3. 135 The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
4. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
5. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
6. THIS RIGHT IS DESIGNATED AS NO 2 IN THE STEWART DECREE AND THE BOISE WATER MASTERS RECORDS
7. P21 This right is a split from former right 63-123.
8. F06 THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123F, 63-123G, 63-124Q, 63-125J, 63-126F, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-21729, 63-18700, 63-31832, 63-31937
9. C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Remarks:

Comments:

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES
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Location of Point(s) of Diversion

BOISE RIVER	NE1/4SE1/4NE1/4	Sec. 5, Twp 03N, Rge 02E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	01E	32		X	X	X	X	X	X	X	X	X		X	X	X	X	X	
05N	01E	33			X				X	X	X	X	X	X	X	X	X	X	
05N	01E	34			X	X					X	X	X	X		X			

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Remarks:

Comments:

Water Supply Bank:

RECEIVED

JAN 31 2008

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DEPARTMENT OF
WATER RESOURCES

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January 29, 2008

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

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

Re: Lexington HOA Witness Disclosure (Water Rights 63-123D, 63-123F & 63-123G)

Dear Director and Mr. Marshall,

Enclosed please find the correct *Lexington Hills Homeowners' Association's Witness Disclosure* in regards to the above referenced sub-cases. We made changes to the witness disclosure after mailing but before filing. The enclosed pleading was filed with the SRBA Court.

If you have any questions please call our office.

Thank you.
Barker, Rosholt & Simpson, LLP


Paul L. Arrington
By Assistant Jessica Forbis

Enclosure

PLA/jf

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Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
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P.O. Box 2139
Boise, Idaho 83701-2139
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Facsimile: (208) 344-6034

Attorneys for Lexington Hills Homeowners' Association

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re: SRBA

Case No. 39576

)
) Subcase Nos. 63-00123D, 63-00123F &
) 63-00123G
)
) **LEXINGTON HILLS**
) **HOMEOWNERS' ASSOCIATION'S**
) **WITNESS DISCLOSURE**
)
)
)

COMES NOW the Lexington Hills Homeowners' Association ("Lexington HOA"), by and through its counsel of record, Barker Rosholt & Simpson, LLP, and hereby makes the following expert witness disclosure in conformance with the Court's *Trial Scheduling Order*, entered October 10, 2007.

The following experts may testify at the trial on this matter:

1. Dave Shaw

Mr. Shaw is expected to testify regarding all aspects of water use by Lexington HOA, including, but not limited to the duty of water, irrigated acres and water delivery.

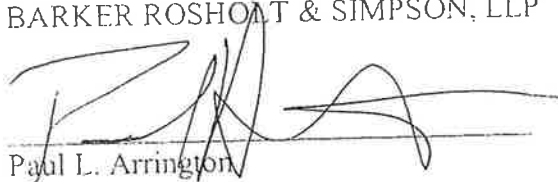
2. Dale Condor

Mr. Condor is expected to testify regarding Lexington HOA's representation of its homeowners.

Finally, Lexington HOA may call employees of the Idaho Department of Water Resources, including, but not limited to, Jeff Peppersack, who are involved in with these water rights.

Dated this 29th day of January, 2008.

BARKER ROSHOLT & SIMPSON, LLP

A handwritten signature in black ink, appearing to read 'Paul L. Arrington', is written over a horizontal line.

Paul L. Arrington
Attorney for Lexington Hills
Homeowners' Association

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 29th day of January, 2008, I caused to be served a true and correct copy of the foregoing **LEXINGTON HILLS HOMEOWNERS' ASSOCIATION'S WITNESS DISCLOSURE** by the method indicated below, and addressed to each of the following:

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

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

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
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Paul L. Arrington