

MEMORANDUM

TO: Water Right File 63-34259

FROM: Daniel Nelson – Analyst 3

DATE: June 27, 2022

SUBJECT: Licensing Review of Water Right 63-34259

The field exam for this right was performed by Certified Water Right Examiner Terry Scanlan of SPF Water Engineering. Mr. Scanlan recommended 0.12 cubic feet per second (cfs) and 86.9 acre-feet (af) for aesthetic use.

History:

The history on this water system is rather long and drawn out. In 1996, Ron Sali filed water right permit 63-12305 for storage and irrigation for a subdivision with several ponds with the Idaho Department of Water Resources (“Department”). Water right 63-12305 includes the artesian well associated with this permit. Due to protests submitted against 63-12305, it was determined that the year-round flow from the artesian wells would not be allowed, and only supplemental irrigation would be allowed from the artesian wells. Permit 63-12305 was approved in 1997 with measurement device conditions and limitations on the artesian wells to only be used for supplemental irrigation.

Field examinations were done on 63-12305 in 2013, and several issues were identified. Some of these issues included that lack of measurement devices, lockable controlling works, and non-stop diversion from the artesian wells. After working with the permit holder for 63-12305, measurement devices and lockable controlling works were installed. The wells were then shut off at the time of licensing this permit. Permit 63-12305 was subsequently licensed in 2014 after the diversions were brought into compliance with the conditions of permit 63-12305.

In 2016, the Department received application for permit 63-34259 requesting year-round use for aesthetic purposes for a water fall from one of the same artesian wells known as Well #3. Water right permit 63-34259 was subsequently approved. The approved permit did not include the measurement and lockable controlling works conditions required under license 63-12305. It has been determined by administrative staff, that we cannot include additional conditions on this permit that were included on 63-12305, since they were not included on the permit. Permit 63-34259 is for year-round use, so it was determined that the measurement devices are only required when Well #3 is being used for supplemental irrigation.

On August 24, 2018, the Department received a field report completed by Alexandra Lynn Clark from Roxanne Brown both of SPF Water Engineering. The Statement of Completion for Submitting Proof of Beneficial Use ("Proof") was not included with the field report and had not submitted to the Department. The field report was returned to SPF Water Engineering until a proof was submitted.

Mr. Scanlan submitted an updated field report and Proof on April 8, 2022. The field report has photos that show the point of diversion. The photos clearly shows the measurement devices installed on the well had been removed. Another concern was that measurement made by Department staff in 2013 was significantly more than the measurements supplied in the field report by Mr. Clark. The diversion rate measured by Ms. Clark was 0.08 cfs compared to the 0.12 cfs measured in 2013. The flow rate measured by Ms. Clark was approximately $\frac{3}{4}$ of the amount measured in 2013. Mr. Scanlan used to the 0.12 cfs amount measured in 2013, since the flows rates of these wells could vary through out the season. It could also mean that the flows in the artesian well has decreased due to overuse as was the concern in 1997 when permit 63-12305 was approved. Mr. Scanlan was correct in using the higher diversion rate of 0.12 cfs measured in 2013.

Reinstatement Review:

It has been determined that this permit should be reinstated and moved forward to licensing. The proof was filed 67 days after Proof was due and 59 days after the Lapsed Notice was sent. The adjusted priority date will be advanced to October 3, 2020. ~~10/3/20~~ ^{10/3/22}

Point of Diversion and Place of Use:

Whereas the point of diversion and place of use were identified in the in the 2013 field work and again in the Mr. Scanlan's field exam, there are no issues with the place of use and point of diversion for this permit.

Diversion Rate and Volume:

As discussed above, the diversion rate measured by Ms. Calk was $\frac{3}{4}$ of diversion rate measured in 2013. There could be several factors that could affect the diversion rate, so I agree with Mr. Scanlan that the diversion rate measured in 2013 of 0.12 cfs should be used. Mr. Scanlan also provided the full volume amount diverted for a non-stop diversion all-year long. This is acceptable because the supplemental use may or may not be used, so this use can be fully diverted even when the supplemental use is not used.

Conditions:

Conditions 930, 004, and the aesthetic use description condition should be carried forward to licensing. Condition 121 should be changed to condition 103 as is standard. As discussed above, none of the conditions included on 63-12305 should be considered for this permit since the water uses are different. There should also be no combined limitations, because 63-12305 is only for supplemental use and may or may not be used.