

## **MEMORANDUM**

TO: Water Right Permit 63-34912

FROM: Daniel A. Nelson

DATE: August 2, 2022

SUBJECT: Attempted In-house Field Examination

An in-house field examination was attempted on permit 63-34912, and several issues arose that it was determined by supervisory staff and myself that an in-field examination was warranted in this case. I will discuss each issue below.

### **1.) The Original Well to be Decommissioned:**

The new well was drilled as a replacement well. Typically, for replacement wells, the old well is decommissioned. The application for permit states that the old well would no longer be used. I have attached imagery to this memo that shows a street view from Google Maps that shows two wells a foot or two apart. I spoke with Aaron Skinner on this issue, and it appears as though they reconditioned the original well and are using it as a backup well. We have addressed this issue by either requiring an amendment, requiring the permit holder to decommission the original well, or find another alternative to describe the use of the old well. The wells are so close that it doesn't appear as though decommissioning the old well is now an option.

### **2.) Amending the Permit:**

The permit has two legal descriptions but has a condition that this permit is for a single well. We could add the original well in an amendment, which would allow us to remove the single well condition. However, including the original well onto this water right would subject both wells to current conditions. This would raise concerns about the irrigation of the property that appears to have been in place since prior to 1987 according to aerial imagery available to the Department.

### **3.) In-house Use Only Condition:**

The permit has a condition that authorizes in-house use only and doesn't include lawn, garden, or landscape irrigation. This was needed because section 3 of the Basin 63 Ground Water Restricted Area guidance Administrative Processing Memorandum #59 states in section 3 that no consumptive uses of ground water can be approved within the restricted area from a well drawing water from less than 200 feet. Since this well is less than 200 feet deep, the irrigation use shouldn't be allowed if this permit is licensed.

The original well didn't have a water right, so it would allow irrigation as long as it complied with Idaho Code §42-111. Idaho Code §42-111 (2) states the following:

For purposes of the sections listed in subsection (1) of this section, domestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in subsection (1)(b) of this section.

This property appears to be a 4-unit mobile home park on a parcel under single ownership. Using ArcMap, I did a quick estimation and came up with approximately 0.295 acres of irrigation. The permit holder contacted Aaron Skinner on November 24, 2020, after the permit was approved and stated that there is approximately 3,000 square feet of turf that is watered and maintained per unit. Please see attached email. This comes to approximately 0.275 acres of irrigation ( $[3,000 \text{ sq ft} \times 4 \text{ units}] / 43,560 = 0.275 \text{ acres}$ ). Irrigation is occurring and the 1992 and 1987 aerial imagery confirms that irrigation did occur under the exempt use prior to approval of the permit.

This raises the question as to whether we should require that the wells be kept separated and consider the 2,500 gpd exempt domestic use originally developed could be applied to the irrigation or if they need to be told that they can no longer irrigate the lawns, gardens, and landscaping. This also creates a situation on how do we condition the license for this permit to show that the lawn irrigation is legal under the existing exempt use?

#### **4.) 13,000 Gallons Per Day Per Home Condition:**

The permit has a condition that authorizes 13,000 gallons per day per home. All these homes are on a single parcel that is owned by one individual. As shown above, a trailer park doesn't meet the qualifications of Idaho Code §42-111(1a). Therefore, the conditions should have limited the entire project to §42-111(1b) or 2,500 gallons per day.

This will work for the in-house use only for the 4 units developed. The standard for in-house use according to Administrative Memorandum #22 is 0.6 acre-feet of water per year which averages out to 536 gallons per day per home ( $[0.6 \text{ acre-feet} \times 325,850] / 365 \text{ days} = 535.6 \text{ gallons per day per home}$ ). The average standard for 4 homes for in-house use would be 2,144 gallons per day.

This creates a dilemma of how we license the permit. Do we limit them to the 2,500 gallons per day allowed in Idaho Code §42-111(1b) described in the Basin 63 Ground Water Restricted Area Administrative Processing Memorandum #59, or do we carry the condition forward even though it doesn't comply with the requirements set forth by the Basin 63 Ground Water Restricted Area Administrative Processing Memorandum #59.

### **5.) Well Location:**

The permit states that there is only one well associated with the permit, but it also provides two legal descriptions. The wells are very close to the 40-acre tract line, so it is reasonable to allow this at the permitting stage. The Well Driller's Report supplies coordinates that places the well right on the line if not slightly south of the lines. The point placed for the well shape in ArcMap is right on the line or slightly north of the line. It would be good to go out and get an accurate GPS point of this well location, so we can make a conclusive designation of the location of the well or wells.

### **Conclusion:**

Due to the multitude of issues with this permit and the well drilling issues, I feel an agent needs to go to this property and confirm what is actually being done at the property instead of relying on aerial imagery and Google Map street views. There are several issues that need to be resolved before we can consider issuing a license for this permit. I believe it is important that we collect actual data from the field that is defensible before we take any action on this permit. A field examination is also needed to determine what conditions we should consider if we do issue a license.

This simple domestic use became more complicated based on the interpretation of the Basin 63 Ground Water Management Area and Idaho Code §42-111.

Permit 63-34912 Google Maps street view that shows the location of 2 wells on the property. Both wells are on the edge of the property closest to the road. It appears from these street views that the wells are both located in the NWSW.



**From:** Jamin Martin <[jamin@mandmcapital.com](mailto:jamin@mandmcapital.com)>  
**Sent:** Tuesday, November 24, 2020 2:58 PM  
**To:** Skinner, Aaron <[Aaron.Skinner@idwr.idaho.gov](mailto:Aaron.Skinner@idwr.idaho.gov)>  
**Cc:** Jamin Martin <[jamin@mandmcapital.com](mailto:jamin@mandmcapital.com)>  
**Subject:** Utahna property - water quality tests

Aaron, thank you for taking the time to review the existing well and the use of it for the current landscape of 4 units and future landscape needs of 6 units in total.

Each unit currently has plus or minus 3,000 sqft of turf they water and maintain.  
I am assuming 6 total at 18,000 to 20,000 sqft in the end.

I am sending another water quality test beyond the one below.  
I can have my property manager send over however many you would like to review.

Thank you for your time, please let me know  
Respectfully Jamin