

Nelson, Dan

From: Nelson, Dan
Sent: Tuesday, August 17, 2021 8:33 AM
To: 'Dave Shaw'
Subject: RE: Amendments for permits 63-33690, 63-34429, and 63-34876

Dear Mr. Shaw,

Thank you for this information. We will resend the letter to you. I also want to inform you that we have received the signed amendments from your client, and I will have the draft licenses to my supervisor for these permits by the end of the week.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Dave Shaw [mailto:dshaw@eroresources.com]
Sent: Tuesday, August 17, 2021 8:21 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Subject: Re: Amendments for permits 63-33690, 63-34429, and 63-34876

Dan,
You have the correct mailing address. Thank you for the follow up.
Dave

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From: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Sent: Tuesday, August 17, 2021 7:09:58 AM
To: Dave Shaw <dshaw@eroresources.com>
Subject: RE: Amendments for permits 63-33690, 63-34429, and 63-34876

Dear Mr. Shaw,

We recently sent a letter to you by email and by regular mail. Please see the email below as the email that was sent to you that included the letter that was sent. The letter sent by regular mail was returned to our office. The address we sent it to was as follows:

Dave Shaw
ERO Resources Corp
4001 East Main St
Emmett ID 83617

Please advise us if your address has changed. I will resend the letter today by regular mail, but I wanted to check and see if the address has changed.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Nelson, Dan
Sent: Monday, August 02, 2021 9:02 AM
To: 'Dave Shaw' <dshaw@eroresources.com>
Subject: Amendments for permits 63-33690, 63-34429, and 63-34876

Dear Mr. Shaw;

Attached is a copy of a letter sent to you by normal mail. The letter includes a copy of an amendment cover letter and amendments that is being sent to your clients Highland Livestock and Land Co. LTD. The amendment cover letter sent to Highland Livestock and Land Co. LTD, does include the letter sent directly to you.

If you have any questions, please don't hesitate to contact us.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

Governor Brad Little

Director Gary Spackman

July 30, 2021

DAVE SHAW
ERO RESOURCES CORP
4001 EAST MAIN ST
EMMETT ID 83617

Re: Highland Livestock and Land Co., Ltd. Water Right Permit Nos. 63-33960, 63-34429, and 63-34876 Beneficial Use Field Examinations Response to Additional Information Request

Dear Dave,

On August 27, 2020, IDWR received the beneficial use field reports (“reports”) you completed for Permits 63-33960, 63-34429, and 63-34876 (“permits”). On September 21, 2020, IDWR returned the reports and requested additional information. Your response dated April 26, 2021, provided the additional information IDWR needed to draft applications for amendment of permit for licensing purposes (“licensing amendments”) for the permits. I’ve enclosed a copy of the draft licensing amendments IDWR sent to the permit holder, Highland Livestock and Land Co., Ltd. The cover letter for the licensing amendments, also enclosed, explains how IDWR applied the information in your reports to prepare the licensing amendments.

I want to acknowledge and respond to the concerns expressed in your April 26, 2021, letter regarding the additional information request. Your concerns were that IDWR sought more information than necessary to issue water right licenses and that IDWR used a theoretical calculation to evaluate and question your direct measurements of the permit holder’s diversion rates.

First of all, I want to affirm that IDWR values its relationships with certified water right examiners (“CWREs”) and appreciates the contributions of CWREs to the water right licensing program. The opportunity to employ a CWRE helps to make the water right licensing program efficient and cost effective for many permit holders.

Second, I want to assure you IDWR does not have a “make work approach” in the water appropriation program. IDWR strives for the appropriate balance between accomplishing our duties efficiently and gathering enough information to make quality decisions. Before issuing a water right license, IDWR must determine that the evaluation of the beneficial use of water is consistent with the minimum requirements set forth in the Beneficial Use Examination Rules (IDAPA 37.03.02). IDWR staff members must also be able to understand the technical information in the reports well enough to draft accurate water right licenses. The IDWR staff member who reviewed your reports thought they lacked some of the information he needed to

Letter to Dave Shaw

RE: Permits 63-33960, 63-34429, and 63-34876

July 30, 2021

Page 2

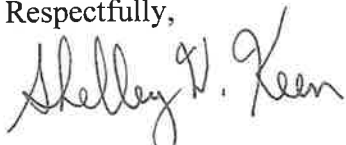
draft water rights licenses. He explained his difficulties in a detailed letter rejecting your reports. To be more efficient, I think IDWR's questions about the reports could have been presented to you, discussed, and resolved less formally and more quickly by email or phone call. I have discussed my view with the staff member involved.

That being said, after reviewing the reports, I understand some of the staff member's uncertainty. For example, the report for Permits 63-33960 and 63-34876 recommends a single diversion rate of 1.93 cfs and a single acreage total of 120 acres, when one of the permits is for 1.80 cfs on 102 acres and the other is for 0.40 cfs on 20 acres. To determine how much rate and how many acres to assign to each water right, IDWR would have had to assume the information explained in the third paragraph of your letter or conduct its own research to determine how development of the permits proceeded and apply the system rate per acre, as it ultimately did.

As for the diversion rate matter, I agree with you that a direct measurement of the flow rate with a properly calibrated and properly installed measuring device is ideal. We have trained the staff members who draft water right licenses to ask questions if the information in a beneficial use field report does not seem right to them for some reason. In this case, the staff member thought the reported diversion rates may have been transposed, and he was trying to resolve what he thought was a discrepancy.

Thank you for providing the additional information to augment your reports. As described above, the additional information enabled IDWR to take the next steps in the water right licensing process. If you have questions about the licensing amendments or if you wish to discuss this matter further, please contact me at (208) 287-4947 or shelley.keen@idwr.idaho.gov.

Respectfully,



Shelley W. Keen

Water Allocation Bureau Chief

Enclosure(s): Copy of Applications for Amendment of Water Right Permit Nos. 63-33960, 63-34429, and 63-34876 and cover letter

Governor Brad Little

Director Gary Spackman

July 30, 2021

HIGHLAND LIVESTOCK AND LAND CO LTD
PO BOX 448
EMMETT ID 83617

RE: Water Right Permits No. 63-33690, 63-34429, and 63-34876

Dear Permit Holder:

The Idaho Department of Water Resources (Department) is reviewing the three permits referenced above prior to issuing water right licenses. By issuing licenses, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

On April 29, 2021, Department staff received a letter and field reports from certified water right examiner, David Shaw, concerning the above referenced permits. In order to meet the requests made by Mr. Shaw in his letter and field reports, amendments of the permits will be required. Due to the rights being submitted in a package format, I will discuss each water right separately and provide a map for each right. Each right will be addressed separately below.

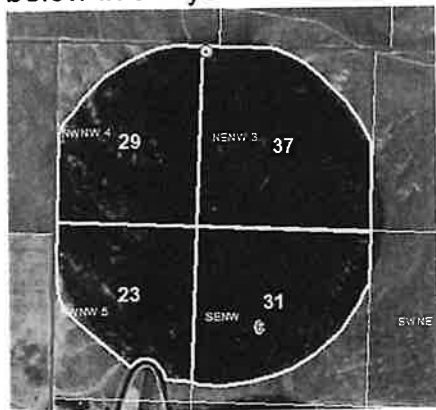
Permit 63-33960:

The field examiner requested that this permit be licensed as having a permissible place of use with the full acres and diversion rate authorized by the permit. It appears as though the entire pivot has been irrigated, since the water was first put to beneficial use. The system does not appear to have been operated by using each water right individually using the full diversion rate authorized by each right. Based on the permit development, we will not be able to issue a license on this permit for more than an average diversion rate per acre for the 102 acres authorized by this right. This right will be recommended at a diversion rate of 1.64 cubic feet per second and the 459 acre-feet of annual volume based on the diversion rate and volume actually applied to the 102 acres irrigated under this right.

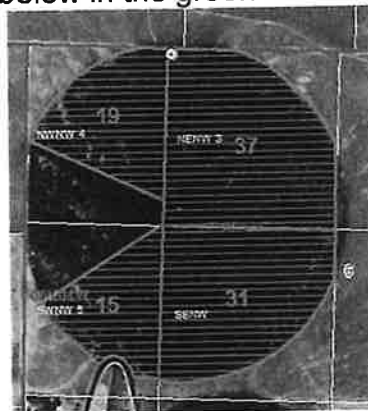
An amendment can be filed to allow this right to irrigate any 102 acres in a single season within the 120 acre pivot described in his field report. This will allow you to move the acres around each irrigation season to cover the most important 102 acres if water right 63-34876 is curtailed to ensure you are irrigating the 102 acres best served by the system. If you wish to have this flexibility, you will need to sign the amendment and return it with the \$100.00 fee.

If you don't wish to sign the amendment and return the \$100.00 fee with the amendment, we will need to license the water right as it was permitted. The following maps show how we can license this water right with the amendment and without the amendment.

With the amendment, you will be able to irrigate 102 acres within the 120 acre area shown below in the yellow border.



If you decide to not sign the amendment and not pay the \$100.00 amendment fee, you will be limited to the 102 acres shown below in the green border.



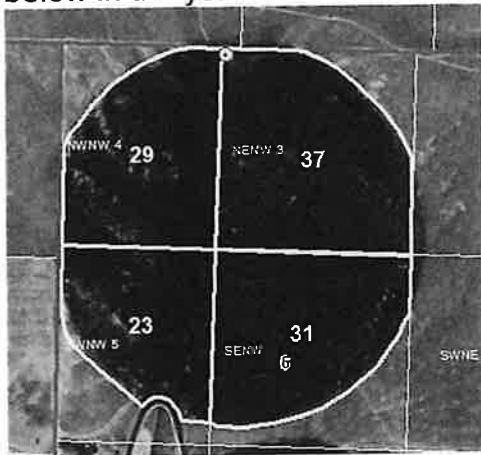
Permit 63-34876:

The field examiner requested that this permit be licensed as having a permissible place of use with the full acres and diversion rate authorized by the permit. As stated above, we will not be able to give the full diversion rate and acres authorized above, because the full pivot has never been operated in a manner to separate out the individual rights. The license for this permit will authorize 0.29 cubic feet per second, 81 acre-feet of annual volume, and 18 acres developed in this system in addition to the diversion rate, volume, and acres authorized by water right 63-33960.

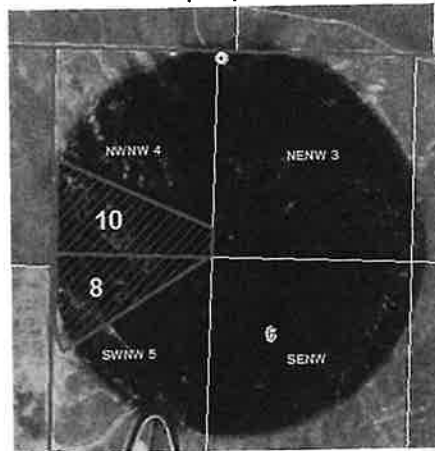
An amendment will allow you to move the 18 acres associated with this right to different areas within the pivot. You will be able to adjust the location that will ensure the best use of the land if a call limits this right or water right 63-33960. In order to have this flexibility, you will need to sign the enclosed amendment for water right 63-34876 and return it with a \$100.00 fee.

If you don't wish to sign the amendment and return the \$100.00 fee with the amendment, we will need to license the water right as it was permitted. The following maps show how we can license this water right with the amendment and without the amendment.

With the amendment, you will be able to irrigate 18 acres within the 120 acre area shown below in the yellow border.



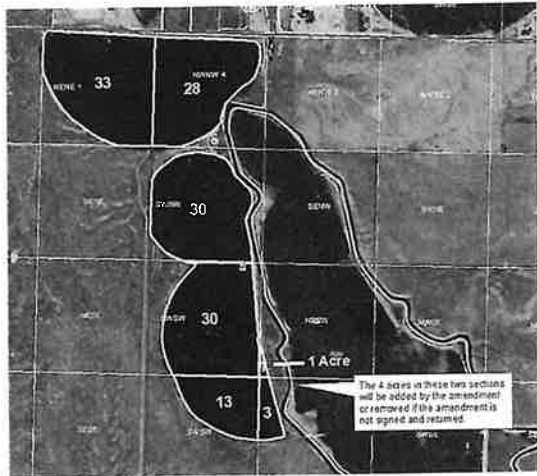
If you decide to not sign the amendment and not pay the \$100.00 amendment fee, you will be limited to the 18 acres shown below in the purple border.



PLEASE NOTE: Regardless of whether or not you sign the amendments for the permissible place of use, you will still be able to irrigate the entire 120 acre pivot at a diversion rate of 1.93 cubic feet per second and 540 acre-feet. The amendment will only give you the option of choosing which acres are to be irrigated if one of the rights are ever curtailed.

Permit 63-34429:

The field examiner requested that the acres originally authorized by this permit be adjusted to cover 4 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2 in Township 5 North, Range 4 West. The 4 acres were not included on your original permit, so the certified water right examiner requested that the permit be amended to include these lands. The certified water right examiner also provided documentation that you have entered into an agreement to irrigate those 4 acres. Please see the map below for identification of the 4 acres in question:



The 4 acres shown on the southeastern side of the southernmost pivot are the 4 acres that need to be added to the permit by an amendment if they are going to continue to be irrigated. If you choose not to amend this water right, we will remove these acres from the proposed license.

If you choose not to sign the amendment for permit 63-34429, we will remove the 4 acres from the licensing of this permit, which will reduce the license to 2.68 cubic feet per second, 603 acre-feet for the irrigation of the remaining 134 acres.

The enclosed Application for Amendment forms depict the elements of each water right as they will appear on the licenses when issued. Please review each amendment form carefully. If you concur with the information presented, please sign and return the form with the \$100.00 filing fee for each amendment within 14 days. If you sign all three amendments, the total cost will be \$300.00.

If you have any questions, please don't hesitate to contact me.

Sincerely,

Daniel A. Nelson
Analyst 3
Water Right Section
Idaho Department of Water Resources
Telephone # (208) 287-4856
Email – dan.nelson@idwr.idaho.gov

Enclosure(s): Three Applications for Amendment with maps

cc David Shaw – ERO Resources.

MEMORANDUM

TO: Water Right File 63-34429

FROM: Daniel Nelson – Analyst 3

DATE: June 25, 2021

SUBJECT: Licensing Review of Water Right 63-34429

The field exam for this right was performed by Certified Water Right Examiner David Shaw of ERO Resources Corp. Mr. Shaw's recommendations will be discussed throughout this memorandum.

History:

Permit 63-34429 was approved in October of 2017, for 2.76 cfs from ground water for the irrigation of 138 acres.

On August 27, 2020, the Department received a field examination report from Mr. Shaw for water right 63-34429. That field exam was subsequently rejected, and a letter stating the reasons why the field exam was rejected was sent to Mr. Shaw on September 21, 2020.

On April 29, 2021, the Department received a letter from Mr. Shaw that included the original field examination. I reviewed Mr. Shaw's April 29, 2021, letter, and determined that the information supplied with Mr. Shaw's April 29, 2021, letter still did not comply with all of the information requested in the field exam rejection letter I sent on September 21, 2020. After discussions with Department staff, it was determined that there was adequate information in Mr. Shaw's April 29, 2021, letter to attempt to make a recommendation for licensing on permit 63-34429.

Overlap:

There are water rights from Black Canyon Irrigation District in Government Lot 4 (NWNW) and the 40 acre tracts running along the canal, but those rights are only used on lands south and east of the canal. Therefore, there are no true overlapping water rights for this property other than the two permits discussed in this permit.

Point of Diversion:

The point of diversion shown in Mr. Shaw's field report maps matches the location GPS'ed in the well driller's report, so I am confident with the point of diversion shown on Mr. Shaw's maps.

Place of Use:

In Mr. Shaw's field report provided a different acreage amount per 40 acre tract than the license, which is normal for irrigation permits. Mr. Shaw did identify 0.6 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 3.6 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2 in Township 5 North, Range 4 West. Mr. Shaw stated in the field report that an amendment was needed to cover the two additional 40 acre tracts not authorized in the permit.

An amendment of permit will be needed to authorize the irrigation of ground in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2.

The 4 acres described above is not owned by the permit holder, but Mr. Shaw provided a lease agreement with the field report that allows these 4 acres to be irrigated. Mr. Shaw states in the field report that the permit holder will retain the water rights for the 4 acres irrigated on the 4 acres, but the agreements seem a bit vague on that issue. The permit is in the name of Highland Livestock and Land Company LTD. The tax parcel data shows the northern two pivots are owned by Highland Livestock. The majority of the southern pivot is owned by Little Enterprises LTD, Partnership, but the Secretary of State web page shows that Highland Livestock and Little Enterprises have the same registered agents. The additional 4 acres of the southern pivot is owned by GW Farms LLC, and appears from the Secretary of State records to be owned by different individuals. It appears from the agreements submitted with the field report, that there is an agreement in place that allows the 4 acres to be irrigated.

The total number of acres Mr. Shaw found was a 138 acres, and 138 acres was authorized by the permit. I was able to recreate a shape file that reflected the acres recommended by Mr. Shaw. As stated above, Mr. Shaw recommended acres to the tenth of an acre in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2. Administrative Application Processing Memorandum 6 does allow water right examiner's to use this method in certain circumstances, but the Beneficial Use Examination IDAPA Rules states that irrigated acres should be shown on the field report to the nearest whole acre except for permits less than 10 acres. Therefore, I recommended that the acres should listed as 1 acre in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 3 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2. Regardless of which method is used, the total number of acres being irrigated in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2 is 4 acres, and really doesn't affect the total acres being irrigated in any significant way. I have attached a map to this memo showing the shape file I created for this right.

Diversion Rate:

In my September 21, 2020, rejection letter, I stated a concern that the system couldn't operate at the system pressure the well pump could provide at the diversion rate Mr. Shaw recommended. Mr. Shaw provided additional information in his April 29, 2021, letter that states that this system has 3 booster pumps that were not identified in the original field examination. The knowledge that booster pumps were part of the delivery system supports and answers my original concern about how the system could operate at such a low pressure with just a well pump providing water and pressure to the system.

Mr. Shaw measurement showed a slightly higher diversion rate than the permit authorized, so the flow rate authorized by the permit will be recommended for the license. The flow rate authorized by the permit is the maximum diversion rate that can be licensed for 138 acres at 0.02 cfs per acre.

Diversion Volume:

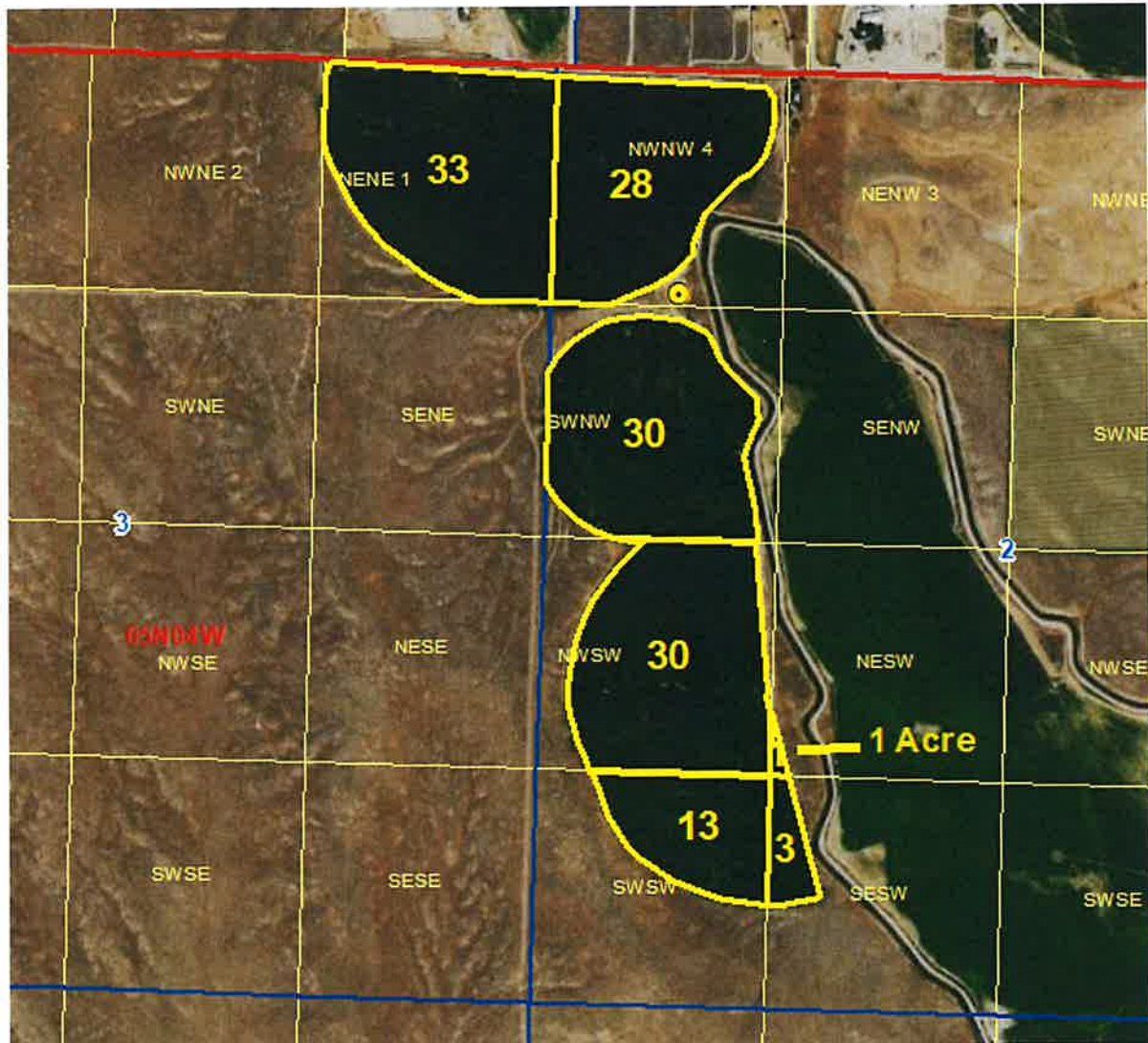
The 621 acre-feet of volume recommended by Mr. Shaw is reasonable, and I recommend this volume be licensed.

Conditions:

Conditions R65, 01M, and 004 should be carried forward to licensing. Condition 121 should be changed to condition 103 as is standard.

Map showing the distribution of acres for right 63-34429.

The following map shows the irrigated acres in 2019. The yellow borders show the place of use, and the large yellow numbers show the acres in each legal subdivision. The yellow dot shows the point of diversion. Please note the 1 acre in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the 3 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2. This map resembles Mr. Shaw's map reasonably closely.



APR 29 2021

DEPARTMENT OF
WATER RESOURCES

April 26, 2021

Mr. Daniel Nelson
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RE: Field Exam Reports for Water Right Permit Nos. 63-33960, 63-34429 and
63-34876

Dear Mr. Nelson:

This letter and attachments to the Beneficial Use Field Reports are being submitted in response to your letter of September 21, 2020 regarding the above referenced water right permits. These should have been the simplest, most straight forward irrigation field exams completed in 2020. I am appalled at the make work approach IDWR seems to take toward completing the simplest, most straight forward obligations to manage the water resources of Idaho.

These ground water permits are stand alone as clearly stated on all 3 applications for permit, there are no other water rights appurtenant to the lands covered by these permits, they are for new land being brought into production. Each well is plumbed to the pivot or pivots in place on the lands being irrigated.

For Permit Nos. 63-33960 and 63-34876 the field exam requests the POU be amended to reflect the acreage identified in the field exam. That acreage would then become a PPU of 220 acres for the 2 licenses with acreage limitations licensed for each right based upon the permitted acreage of 102 and 20, respectively. The diversion rate for each right would be licensed to match the permitted amounts of 1.80 and 0.40 cfs respectively with a combined diversion rate limit of 1.93 cfs.

The 1.93 cfs measured at 10:10 am on 8-21-2020 matches closely to the 925 gpm design for this well and pump installation, copy enclosed. The pump and well have been in use since 2016 so a 6½% reduction from the design capacity of the well and pump should not be unexpected.

The meter I have does not have a printout or a method to download the measurement results. I have never before been asked to justify measurements reported under my signature and seal. The 864 gpm measurement was taken at 10:10 am on 8-21-2020 with the transducers installed as shown in the photo attached to the field exam. That information has been sufficient in past field exams

Denver
1842 Clarkson St.
Denver, CO 80218
303.830.1188

Durango
1015 ½ Main Avenue
Durango, CO 81301
970.422.2136

Hotchkiss
P.O. Box 932
161 South 2nd St.
Hotchkiss, CO 81419
970.872.3020

Idaho
4001 East Main Street
Emmett, ID 83617
208.365.7684

www.eroresources.com

Consultants in
Natural Resources
and the Environment

and I am not aware of any change to IDWR's Beneficial Use Examination Rules in the interim. I find it unconscionable a theoretical diversion rate, which is deemed unacceptable by IDAPA 37.03.02.040.04 for determining the amount of water being beneficially used, is offered as the basis for finding an actual measured rate of flow unacceptable.

I believe the pressure gage readings at both wells were questionable and did not report them for that reason. Including questionable data in the beneficial use exam record does not add to the quantification of the amount of water being beneficially used.

The measurement for permit 63-34429 was taken at 11:28 am on 8-21-2020 with the transducers installed as shown in the attached photo. The measured 2.79 cfs matches closely the 1,200 gpm design for this well and pump, copy attached, being 4% greater than the design rate of discharge. This well and pump was installed in 2018 making them a little newer than the well and pump described above.

There are 3 booster pumps in the distribution system for 63-34429, all located downstream on the measure point. There is a booster pump shown in the attached photos that is a 15 hp booster for the northern most pivot. There is a 3 hp booster pump for the middle pivot and a 5 hp booster pump for the southern most pivot. As noted above, all 3 booster pumps are downstream of the measurement location used on 8-21-2020.

Should you require any additional information, please let me know.

Yours truly,



Dave Shaw

Enc.

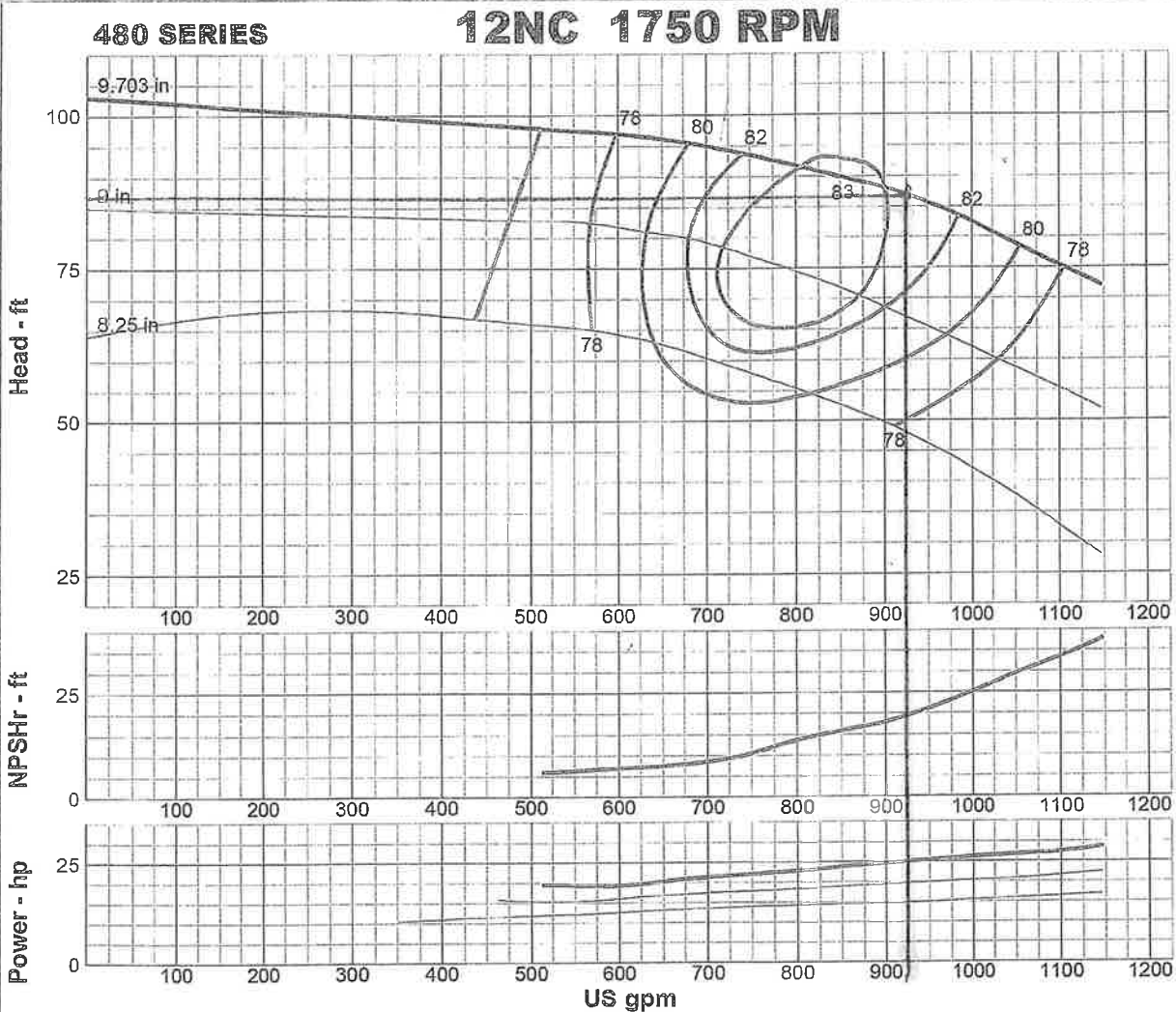
cc: David Little via Email w/o Enc
Shelley W. Keen w/o Enc.



TURBINE PUMP CURVE

SINGLE STAGE PERFORMANCE

JANUARY 2010



IMPELLER DATA			
IMPELLER NUMBER	0704	Minimum submergence above eye of bottom impeller: 30 IN.	
TYPE	ENCLOSED		
THRUST FACTOR	K=4.40		
EYE AREA	14.1 SQ. IN.		
WEIGHT	12.50 LB.		

EFFICIENCY CORRECTION				
NUMBER OF BOWLS:	1	2	3	
CHANGE AS FOLLOWS:	-2	-1	0	
CHANGE IN EFFICIENCY MAY AFFECT BOTH HEAD AND HORSEPOWER.				

PUMP MATERIAL EFFICIENCY CORRECTION				
	DUCTILE	BRONZE	NI-R	STAINLESS
IMPELLER MATERIAL:	-2	0	-1	-2
BOWL MATERIAL:	-2	-1	-2	-3

FLANGED BOWL DATA	
BOWL NUMBER	0902
BOWL MAX. DIAMETER	12.188 IN.
BOWL MIN. DIAMETER	11.750 IN.
MAX. NO. STAGES	13
ONE STAGE WEIGHT	245 LB.
ADD STAGE WEIGHT	102 LB.
STD. SHAFT DIA.	1.688 IN.
STD. LATERAL	0.625 IN.
DISCHARGE SIZE	8 - 10 IN.
DISCHARGE CONNECTION	THD - FLG
SUCTION SIZE	8 - 10 IN.
SUCTION CONNECTION	THD
MAX. SPHERE SIZE	0.750 IN.
MAX. OPERATIONAL P.S.I.	515 (SPECIAL)

Performance based on pumping clear, fresh water at a temperature not over 85° F., free of gas, air or abrasives and with bowls properly adjusted and submerged. Performance curve reflects Hydraulic Institute tolerances and guidelines.

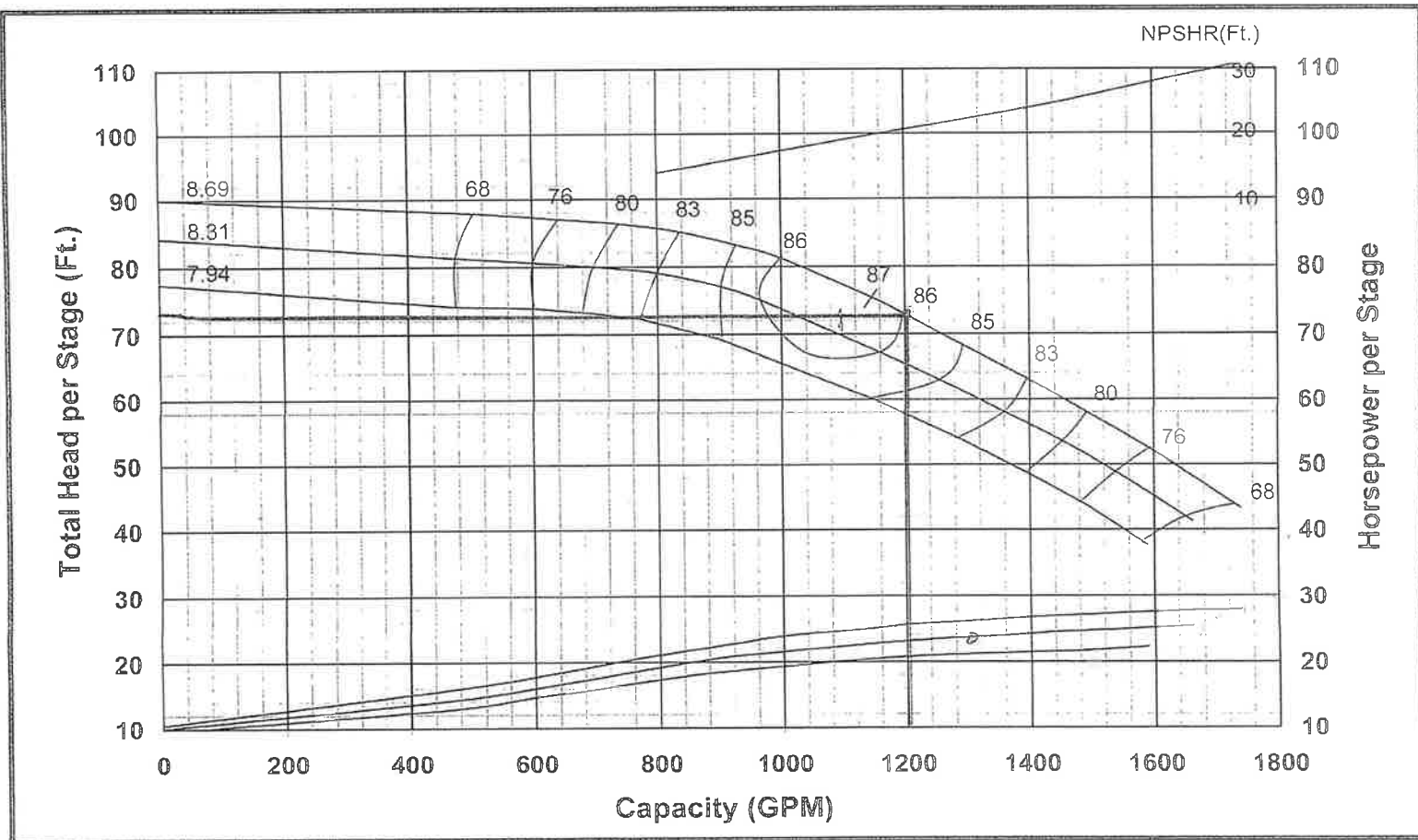
Dave Little
12NC 5 stage,
925 GPM @ 400' TDH

Gotsch Road Pump



Oasis Road Pump

GOULDS PROPOSAL NO.	GOULDS S.O. NO.	INQUIRY NO.	CUSTOMER P.O. NO.	P.O. DATE	ITEM NO.	CUSTOMER
				3/12/15		David Little Goulds 12CHC 5 stg
PROJECT	SERVICE	GPM CAPACITY	FT. TDH	% EFFICIENCY	RPM	
	125 HP	1200	375		1800	



Curve No. E6412CCPC1	
Model 12CHC	
RPM 1770	
EFFICIENCY CORRECTION	
1-STAGE	-3.0
2-STAGE	-2.0
3-STAGE	-0.5
4-STAGE	0.0
Impeller ENCLOSED	
Ns = 2100	
K = 7.5 LBS/FT	
K(Bal.)= N/A	
Bowl O.D.	11.75"
Bowl Lateral	1.00"
Max. PSI	340
Disch size	6", 8", 10"
TURBINE OPERATIONS	
Lubbock, Texas	
BOWL PERFORMANCE CURVE BASED ON PUMPING CLEAR, NON-AERATED WATER. RATED POINT ONLY IS GUARANTEED. CURVES REPRESENT SINGLE STAGE PERFORMANCE BASED ON TEST OF MULTI-STAGE BOWL ASSEMBLY. EFFICIENCY CORRECTION IS REQUIRED FOR LESSER STAGES.	

Model 12CHC

June 2005

Goulds Pumps



ITT Industries

AUG 27 2020

WATER RESOURCES
WESTERN REGION

August 24, 2020

Nick Miller, Manager
Department of Water Resources Western Region
2735 Airport Way
Boise, ID 83705-5082

RE: Statements of Completion and Beneficial Use Field Reports for 63-33960,
63-34429 & 63-34876

Dear Nick:

Enclosed are Statements of Completion and Beneficial Use Field Reports for the above referenced water right permits in the name of Highland Livestock and Land Co. Ltd. One project is covered by the 2 permits no. 63-33960 and 63-34876, and the second project is covered by the single permit no. 63-34429.

Please let me know if I can provide you with any additional information or answer any questions. Thank you in advance for your consideration.

Yours truly,



Denver
1842 Clarkson St.
Denver, CO 80218
303.830.1188

Durango
1015 1/2 Main Avenue
Durango, CO 81301
970.422.2136

Hotchkiss
P.O. Box 932
161 South 2nd St.
Hotchkiss, CO 81419
970.872.3020

Idaho
4001 East Main Street
Emmett, ID 83617
208.365.7684

www.eroresources.com

cc: Highland Livestock & Land Co. Ltd.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A Beneficial Use Field Report is prepared by a water right examiner as the result of an examination to clearly confirm and establish the extent of the beneficial use of water established in connection with a permit during the development period authorized by the permit and any extensions of time previously approved.

A. GENERAL INFORMATIONPermit No. 63-34429

1. Owner Highland Livestock and Land Co Ltd Phone No. 208-365-4611
 Current address PO Box 448, Emmett, ID 83617
2. Examiner's name David Shaw EXAM DATE _____
3. Accompanied by David Little Email dalittle61@outlook.com
 Address PO Box 448, Emmett, ID 83617
 Relationship to permit holder Managing Partner Phone No. 208-365-4611
4. Source Ground Water tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use None
2. Other water rights with the same source and point of diversion None

C. DIVERSION AND DELIVERY SYSTEM

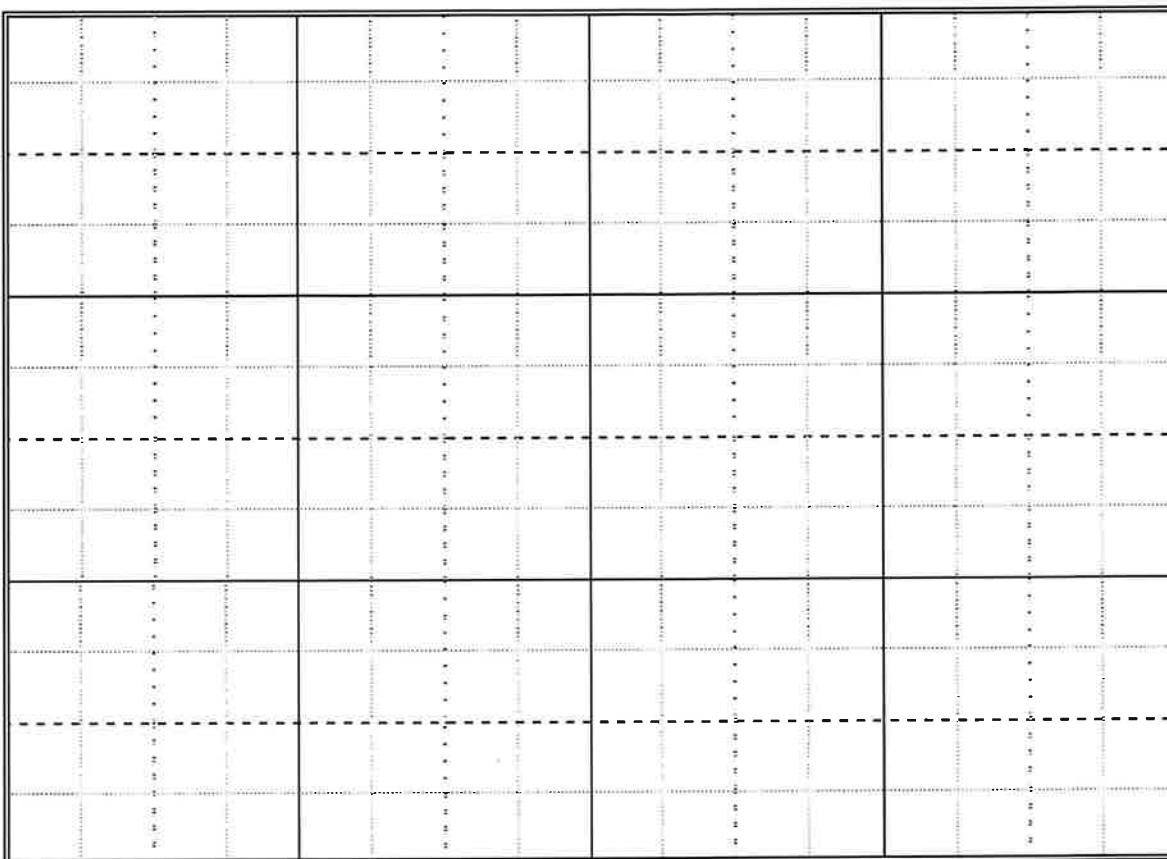
1. Point(s) of Diversion:

Ident. No.	Gov't Lot	¼	¼	¼	Sec	Twp	Rge	County	Method of Determination/Remarks
	4		NW	NW	2	5N	4W	Payette	Aerial Photo

2. Place(s) of Use: Method of determination Aerial Photo

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	4W	2						Lt 4											
								28	30		0.4	30	13	3.6					105
		3	Lt 1																
			33																33

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe diameter (inside), as applicable. Use the space provided or ☒ see attached.



Scale: 1" = _____

- ☒ Copy of USGS Quadrangle attached showing location(s) of point(s) of diversion and place(s) of use (**required**)
☒ Aerial photo attached (required for irrigation of 10+ acres)
☒ Photo of diversion and system attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	GE	125	FLFT170U009		

*Code to correspond with no. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Acoustic Transit Time	Portable	Polysonics	DCT7008	33508		6-17-16 - Factory
						8-20-20 - In-House

2. **Measurements:** _____

1,252 GPM 11:28 am See photo of meter installation

Measurement take 8-21-2020 DBS
3-15-21

E. NARRATIVE/REMARKS/COMMENTS

This water right is for the development of new ground not previously irrigated. The well was completed in 2018, see well log attached.

The 4 acres being irrigated in the E1/2 SW1/4 Section 2 Township 5N Range 4W, B.M. is being irrigated pursuant to agreements between Highland Livestock & Land Co., Inc. and Little Enterprises, LLLP and Troy Seward of GW Farms, LLC, copies enclosed. The water right that is perfected under water right permit no. 63-34429 shall remain the sole property of Highland Livestock & Land Co., Inc. in its entirety even though 4 acres of the water right are currently being used on land owned by others.

Has the permit holder met all conditions of permit approval, including any mitigation requirements and/or measuring device installation requirements? ☒ Yes ☐ No If no, what must be done to meet the permit requirements?

Land Rent Agreement: Troy Seward and Little Enterprises, LLLP

Troy Seward
GW Farms, LLC
28058 Locker Road
Parma, ID 83660

and

David Little
Little Enterprises, LLLP
PO Box 488
Emmett, ID 83617

Troy Seward and or GW Farms LLC "Seward" owns approximately 20 acres on the West side of the canal next to Little Enterprises, LLLP property "Little".

Little agrees to lease the 20 acres for farming and running livestock for a sum of \$500/annually to be paid by March 15th of each year.

Little has paid \$1,545 for a fence that separates Seward's property from the neighbor's property. Seward agrees to pay 50% of this fence cost (\$772). Little and Seward agree to deduct the fence cost from the annual rent payment until paid in full at which time Little will remit payment to Seward at the address in this agreement.

This agreement may be terminated by Seward or Little only between December 1 and February 28, provided the crop is off. Agreement cannot be terminated by either party until year 3 (after fence cost is recovered).

It is noted that if Seward or Little terminate this agreement there is still an East/West boundary between the properties that would need fenced to completely separate the properties.

Agreement effective starting January 1, 2018.


Troy Seward


David Little
Managing Partner
Little Enterprises, LLLP

LITTLE ENTERPRISES, LLLP

P.O. Box 488
Emmett, ID 83617
208-365-4611
www.littlecattleco.com

Irrigation Agreement

Little Enterprises, LLLP

and

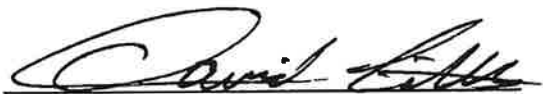
Highland Livestock & Land Co., Inc.

Troy Seward and/or GW Farms, LLC owns approximately 20 acres on the West side of the canal next to land owned by Little Enterprises, LLLP which Little Enterprises, LLLP currently leases from Seward effective beginning January 1, 2018.

Little Enterprises, LLLP hereby grants permission for Highland Livestock & Land Co., Inc. to irrigate part of the land leased from Seward by Little Enterprises LLLP beginning with the farming season in 2018 and continuing throughout the term(s) of said lease.



David Little
Little Enterprises, LLLP



David Little
Highland Livestock & Land Co., Inc.

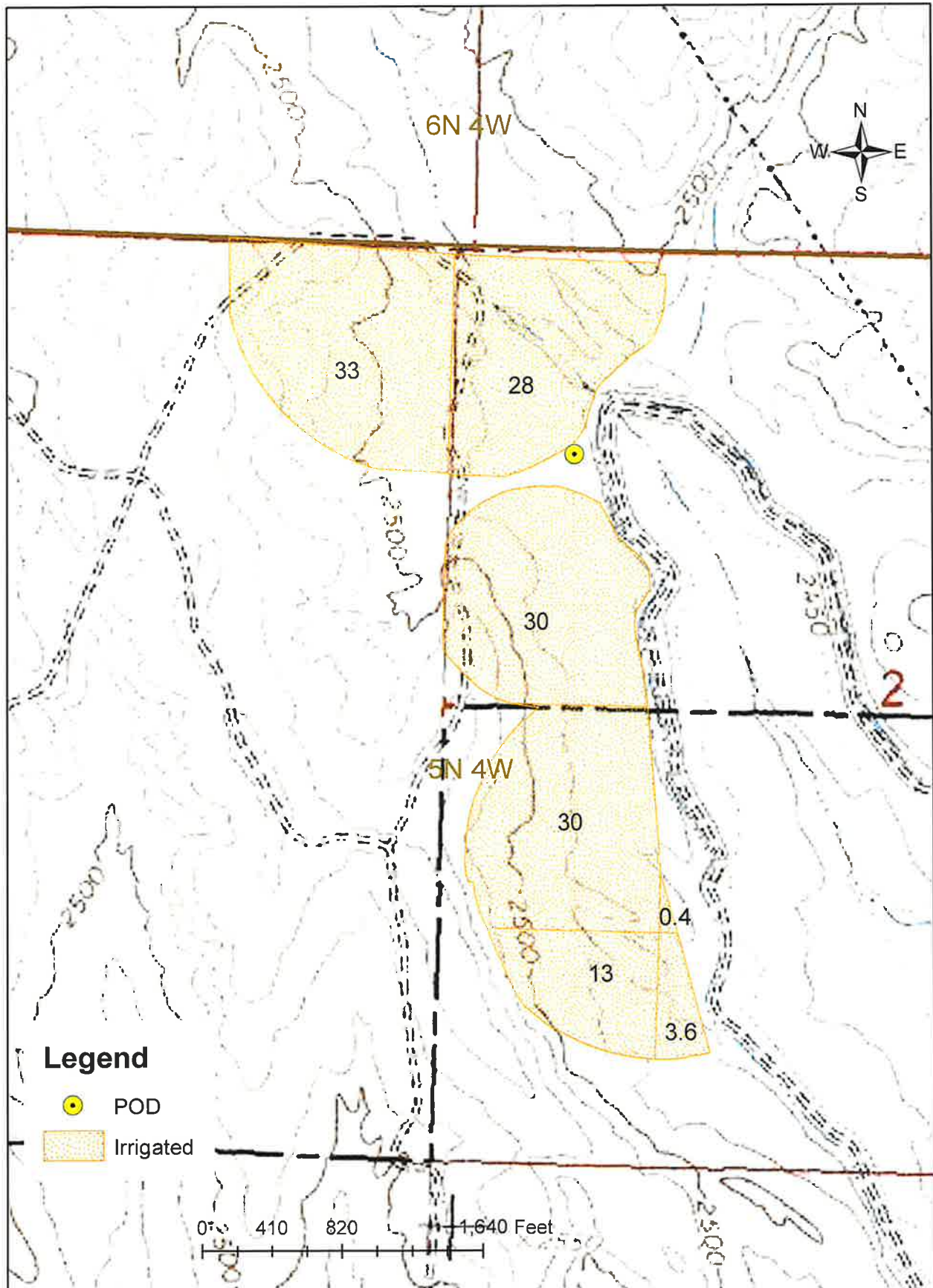
Highland Livestock and Land Permit 63-34429



Based on 2019 NAIP Photography

Prepared for Little Enterprises by ERO 6-2020

Highland Livestock and Land Permit 63-34429



63-34429 Photos

8-21-20



Pump Motor Name Plate



Meter Installation



Pump and Well Installation

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

1. WELL TAG NO. D 0077303

Drilling Permit No. 978289-884446

Water right or injection well # 63-34429

2. OWNER: Highland Livestock & Land Company

Name _____

Address P.O. Box 488

City Emmett State ID Zip 83617

3. WELL LOCATION:

Twp. 05 North ☒ or South ☐ Rge. 04 East ☐ or West ☒

Sec. 02 1/4 NW 1/4 NW 1/4

Gov't Lot _____ County Payette

Lat. 43 48.228 (Deg. and Decimal minutes)

Long -116 47.419 (Deg. and Decimal minutes)

Address of Well Site 1/4 mile south of Pearl Rd & Oasis Rd

City Caldwell

(Give at least name of road - Distance to Road or Landmark)

Lot. _____ Blk. _____ Sub. Name _____

4. USE:

☐ Domestic ☐ Municipal ☐ Monitor ☒ Irrigation ☐ Thermal ☐ Injection☐ Other _____

5. TYPE OF WORK:

☒ New well ☐ Replacement well ☐ Modify existing well☐ Abandonment ☐ Other _____

6. DRILL METHOD:

☐ Air Rotary ☐ Mud Rotary ☐ Cable ☒ Other Reverse Rotary

7. SEALING PROCEDURES:

Seal material From (ft) To (ft) Quantity (lbs or ft³) Placement method/procedure

3/4" Bentonite 0 209 30,000# Dry pour

8. CASING/LINER:

Diameter (nominal) From (ft) To (ft) Gauge/Schedule Material Casing Liner Threaded Welded

16 +2 236 .375 Steel ☒ ☐ ☐ ☒16 256 296 .375 Steel ☒ ☐ ☐ ☒16 316 331 .375 Steel ☒ ☐ ☐ ☒16 341 361 .375 Steel ☒ ☐ ☐ ☒Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) _____

9. PERFORATIONS/SCREENS:

Perforations ☐ Y ☒ N Method _____Manufactured screen ☒ Y ☐ N Type Wire Wrap

Method of installation Lower in one string

From (ft) To (ft) Slot size Number/ft Diameter (nominal) Material Gauge or Schedule

236 256 .030 16 Stainless

296 316 .030 16 Stainless

331 341 .030 16 Stainless

Length of Headpipe _____ Length of Tailpipe _____

Packer ☐ Y ☒ N Type _____

10. FILTER PACK:

Filter Material From (ft) To (ft) Quantity (lbs or ft³) Placement method

#8-16 Sand 209 455 48,000# Dry pour

11. FLOWING ARTESIAN:

Flowing Artesian? ☐ Y ☒ N Artesian Pressure (PSIG) _____

Describe control device _____

12. STATIC WATER LEVEL and WELL TESTS:

Depth first water encountered (ft) 92'6" Static water level (ft) 92'6"

Water temp. (°F) 68° Bottom hole temp. (°F) _____

Describe access port 2 pipe on side

Well test:

Drawdown (feet)	Discharge or yield (gpm)	Test duration (minutes)	Pump	Bailer	Air	Flowing artesian
102	1450	610	☒	☐	☐	☐
			☐	☐	☐	☐

Test method:

Water quality test or comments: _____

13. LITHOLOGIC LOG and/or repairs or abandonment:

Bore Dia. (in)	From (ft)	To (ft)	Remarks, lithology or description of repairs or abandonment, water temp.	Water	
				Y	N
26	0	3	Top soil		X
26	3	5	Caliche		X
26	5	8	Hard brown clay		X
26	8	59	Coarse sand		X
26	59	85	Tan clay		X
26	85	110	Fine-coarse sand	X	
26	110	120	Tan clay		X
26	120	124	Coarse sand	X	
26	124	128	Tan clay		X
26	128	154	Fine-coarse sand	X	
26	154	159	Tan clay		X
26	159	165	Medium sand	X	
26	165	170	Tan clay		X
26	170	198	Medium-coarse sand	X	
26	198	232	Blue clay		X
26	232	257	Fine-coarse sand	X	
26	257	262	Blue clay		X
26	262	268	Coarse sand	X	
26	268	285	Blue clay		X
26	285	290	Coarse sand	X	
26	290	294	Blue clay		X
26	294	297	Tan clay		X
26	297	316	Fine-coarse sand	X	
26	316	331	Tan clay		X
26	331	341	Fine-medium sand	X	
26	341	343	Blue clay		X
26	343	347	Fine-medium sand	X	
26	347	365	Blue clay w/sm sand streaks	X	X
26	365	380	Fine sand	X	
26	380	395	Blue clay		X
26	395	399	Fine sand	X	
26	399	409	Blue clay		X

Completed Depth (Measurable): 449'

Date Started: Nov 22, 2017 Date Completed: Feb 20, 2018

14. DRILLER'S CERTIFICATION:

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name Riverside Inc Co. No. 333

Principal Driller _____ Date 3/7/18

Driller _____ Date 3/7/18

Operator II _____ Date 3-7-18

Operator I _____ Date _____

Signature of Principal Driller and rig operator are required.

RECEIVED

MAR 13 2018

WATER RESOURCES



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 21, 2020

ERO RESOURCES CORP
ATTN DAVE SHAW
4001 E MAIN ST
EMMETT ID 83617

RE: Field exam report for water right permits 63-33960, 63-34429, and 63-34876.

Dear Mr. Shaw:

I have reviewed the field exam you supplied for water right permit 63-33960, 63-34429, and 63-34876. During my review I discovered that field exam is deficient in several areas. Due to the number of issues involved, I am required to reject this field report. I will discuss each deficiency below:

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.c states the following:

A concise description of the diversion works and a general description of the distribution works shall be given. This description must trace the water from the point of diversion to the place of use and the return to a public water source, if any. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structure shall be included. If water is stored, the timing and method of storage, release, redistribution and conveyance to the place of use shall be described. The make, capacity, serial number and model number of all pumps, boosters or measuring devices associated with the point of diversion at the source of the water supply shall be described on the field examination report. Schematic diagrams, photographs, and maps sufficient to locate and describe the diversion, conveyance and usage systems shall also be provided in the examination report.

Neither of your reports include any information on the delivery system or very little narrative on how the system is operated. For example, is any canal water or other systems connected into the pivot or is it a standalone system? There are times that we can overlook an incomplete narrative if there is substantial information in the file that provides the information needed to render a decision. In this case, there was very little information provided in the entire file to attain a reasonable understanding on how this system works. A narrative should tell the story of the water use, and what you did during your field examination.

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.01.n states the following:

For permits having more than one (1) use, the diversion rate measured for each use, the annual diversion volume determined for each use (unless specifically exempted by rule or statute), and the place of use for each use shall be described

You combined the field reports for permit 63-33960 and 63-34876. We have allowed this type of field report to be accepted in the past if the use allocated under each right met the IDAPA rule shown above. You did not separate how much diversion rate or volume that was allocated to each water right, and you also didn't separate out the number of acres each should be allotted to which right. If you combine field reports in this manner, recommendations need to be given for each water right you are including in the field report. Although we prefer separate field reports for each right, we do accept them if they clearly show a delineation of what is being recommended for each water right. Either supply separate field reports, or clearly show what diversion rate, volume, and acres are to be assigned to which water right.

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.040.03 and 04 state the following:

03. Measurements. Water measurements may be made by vessel, weir, meter, rated flume, reservoir capacity table or other standard method of measurement acceptable to the Director. The field report shall describe the method used in making the measurement, the date when made, the name of the person making the measurement, the legal description of the location where the measurement was taken and shall include sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case. (3-20-20)T

04. Unacceptable Measurements. Theoretical diversion rates or theoretical carrying capacities are not acceptable as a measure of the rate of diversion except as indicated in these rules and for some diversion systems where the flow rate cannot be measured accurately due to the physical characteristics of the diversion and distribution system.

Neither of your field reports had the measurements that were downloaded from your measurement device. There were no pictures showing the rate of flow or field notes describing how the measurement was accomplished. There were no pressure readings to determine if the pumps were operating normally. I was only able to guess at the pressures and flow rates.

By using the well driller's report and the contour lines on the map, I determined that the maximum the 125 Hp pump for permit 63-34429 could deliver was 849 gpm, but you are stating that the pump can divert 1,252 gpm. With the pumping water level suggested in the well driller's report, the well would need to be pumping against 35 psi to accomplish this type of flow rate. Most pivots require a minimum of 40 psi at the pivot, and the majority of the pivots for this permit are run uphill from pump between 80 and 100 feet, so under the best of circumstances, the pressure on the pump would be closer to 92 psi to allow the pumps to operate correctly.

The well for permits 63-33960 and 63-34876 according to the well driller's report has a pumping water level of 200 feet, but the pressure should be less, since it isn't pumping as far uphill from the well. I would guess that the pressure of this system is closer to 50 psi at the pump. Taking this information, it appears as though this pump could operate at close to 1,095 gpm, but you state that this pump operated at 864 gpm.

With the information you supplied, it appears as though you may have transposed the measurements taken on the two wells. However, without the field notes or the downloaded measurement information, I cannot tell which measurement goes with which system.

CONCLUSION:

Idaho Code §42-219 (1) states the following in part:

Upon receipt by the department of water resources of all the evidence in relation to such final proof, it shall be the duty of the department to carefully examine the same, and if the department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license corresponding to the beneficial use. Such license shall state the name and post office address of such user, the purpose for which such water is used and the quantity of water that may be used, which in no case shall be an amount in excess of the amount that has been beneficially applied. For permits held by a municipal provider for reasonably anticipated future needs, a license may be issued incrementally for an amount corresponding to the beneficial use demonstrated to the satisfaction of the department in each incremental statement of completion showing proof of beneficial use submitted pursuant to section 42-204(4), Idaho Code, which amount, together with any previously licensed portion of said permit, shall not exceed the initial quantity authorized under the permit. The final incremental license at the end of the planning horizon shall be issued for an amount corresponding to the beneficial use. The director shall condition the license to prohibit any transfer of the place of use outside the service area, as defined in section 42-202B, Idaho Code, or to a new nature of use of amounts held for reasonably anticipated future needs together with such other conditions as the director may deem appropriate.

The IDAPA Beneficial Use Examination Rules 37.03.02.035.02.b states the following:

Field reports not completed as required by these rules will be returned to the certified water right examiner for completion. If the date for submitting proof of beneficial use has passed, the penalty provisions of Rule 055 shall apply.

The Department has concluded that the field reports for permits 63-33960, 63-34429, and 63-34876 that the field reports for these three permits are not completed as required by the IDAPA Beneficial Use Rules. Therefore, we are returning the Proof of Beneficial Use Statements and Field Reports to you for completion. A copy of this letter will be also be sent to the permit holder, since there water rights are involved. The permit holder could also file a standard amendment according to Idaho Code § 42-204B for the additional acres actually developed if they choose to correct the record prior to refiling proof of beneficial use.

The "Proof of Beneficial Use Statement of Completion" form for this permit is not required to be submitted until February 1, 2022 (63-33960), October 1, 2022 (63-34429), and June 1, 2022 (63-34876). Therefore, there will be no penalties or adjustments of the priority date until after the proof of beneficial use due date for each right shown above.

If you have any questions or concerns, please don't hesitate to contact me.

Respectfully,



Daniel Nelson

Staff Hydrologist

Idaho Department of Water Resources

Telephone (208) 287-4856

Fax (208) 287-6700 (attn: Dan Nelson)

Enclosures: Returned Field Report
 Returned Proof of Beneficial Use

CC HIGHLAND LIVESTOCK & LAND CO LTD
 PO BOX 448
 EMMETT ID 83617