

## MEMORANDUM

TO: Water Right Permit File 63-12157

FROM: Daniel A. Nelson

DATE: December 22, 2020

SUBJECT: Telephone Conversation Memorandum

On December 22, 2020, I called Charles Honsinger and informed him that we were not going to be issuing an amendment of permit for water right 63-12157. I told him that we were unable to change the use to municipal use due to the reasons described in my memo dated December 18, 2020. I also informed him that we needed to license the permit as permitted, and were not able to include the City of Meridian's service area as the place of use or include all of the wells for the City of Meridian. Since we were not able to do these things, an amendment was not needed, and we would issue a water right license. I also informed Mr. Honsinger that we would only include 2 points of diversion on the license, since one of the wells has been abandoned. I also informed Mr. Honsinger that I would make sure that as soon as the permit was signed, I would make sure that the documents in the folder are scanned and profiled and made available on our website.

## MEMORANDUM

TO: Water Right File 63-12157

FROM: Daniel Nelson – Analyst 3

DATE: December 18, 2020

SUBJECT: Review of proposed licensing amendment

On December 17, 2020, I met with Angie Grimm and Shelley Keen concerning the proposed amendment for permit 63-12157. The proposed amendment was composed to include all of the City of Meridian wells as points of diversion, and to use the City of Meridian service area as the place of use. There was also a condition placed on the permit that limited the use to in-house use only, and another condition that limited the use to non-consumptive use.

It appears from the review of this permit, that it was approved ahead of other permits due in part because they had offered to mitigate the consumptive irrigation use by recharging the water into the pond. The pond was constructed, but the pond was small enough that the recharge was not adequate to handle the consumptive use of the irrigation. The permit holder also did not supply the required information to finalize the recharge project. Therefore, the City of Meridian decided to remove the irrigation component from the water right. This only left the in-house use available for licensing.

During the meeting, it was determined that there is no way that the Department could consider changing domestic water right for in-house use only to a municipal water right. On the whole, in-house use only water rights generally do not have a consumptive type component associated with them, and municipal type water rights are considered to be totally consumptive. Therefore, we can't consider changing an in-house use only water right to a municipal type use.

The second issue discussed was whether or not the Department could all of the City of Meridian's points of diversion as part of the amendment. Multiple concerns came about when discussing this situation. The first concern was that some of the wells for the City of Meridian are within the Basin 63 Restricted Ground Water Area. The original place of use and points of diversion for this permit are outside of the Basin 63 Restricted Ground Water Area. This could cause issues with the movement of wells across the border of the Basin 63 Ground Water Area. There also appears to be an issue with the water quality in the wells originally associated with this permit. This would suggest that the City of Meridian cannot use the existing wells, so it could cause issues with unusable wells within the well list for the City of Meridian. Since the municipal use cannot be used for this permit, it was decided that this permit can only be licensed with the wells that were used during the development period.

The third and final issue is reasonably straight forward. Since we cannot change to use to municipal as stated above, we cannot use the City of Meridian's service area as a place of use. This makes sense, since domestic water uses cannot have a large place of use designation.

I have been instructed to change the right back to the way it was originally permitted. No amendment will be needed. I will remove the irrigation uses, and all of the conditions that address the irrigation components for this permit. This permit will include the condition that limits the domestic use to include in-house use only and not include lawn, garden, landscape or other types of irrigation.

In review of the permit file, I found an email conversation memorandum between staff and the permit holder discussing the original request of up to 90 home dated January 5, 1995. The plat map supplied with the application for permit only showed a total of 56 platted lots, and was named Kentucky Ridge Estates Subdivision. The January 5, 1995, memorandum confirmed that this permit was limited to the 56 platted lots submitted with the application for permit. It was agreed at that time that additional water rights would be filed on any development outside of the area shown in the plat map submitted with the application for permit.

When comparing the field exam map to the plat map supplied in the application for permit, it was discovered that only 53 homes were developed on the lots associated with the original plat map. With the 53 homes, the volume will be reduced to 31.8 af (53 homes X 0.6 af/home = 31.8 af).

There was a home in what was Lot 1, Block 1, but the field examiner found that this home was not connected into the system. Lot 1, Block 1, has since been re-subdivided and is no known as Kentucky Vilas Subdivision.

Block 6, included the park (Lot 1), well house (Lot 2), and one domestic residence and several acres (Lot 3). The park parcel was renamed to Lot 1, Block 3; and the well house parcel was renamed to Lot 2, Block 3; of Kentucky Ridge Estates Subdivision. Lot 3 has since been re-subdivided into Kentucky Ridge Estates Subdivision Number 3 and Kentucky Ridge Estates South Subdivision. The one home in Lot 3, Block 6; that was subdivided is now known as Lot 15, Block 5; Kentucky Ridge Estates Subdivision Number 3.

With the re-platting of some of the original parcels, the place of use condition X60 should be corrected to state the following:

Place of use is located within Lots 2-18, Blk. 1; Lot 1-19, Blk. 2; and Lots 4-19, Blk. 3; of Kentucky Ridge Estates Subdivision and Lot 15, Blk. 5; Kentucky Ridge Estates Subdivision No. 3.



The field examiner found 3 wells being used for this subdivision in the same legal descriptions as described in the permit. Since the field examination, the well in the SENE of Section 25 in Township 3 North, Range 1 West has been abandoned. Since this well have been abandoned, there is no need to carry it forward to licensing. These subdivisions are currently being serviced by the City of Meridian, so if they want to designate a specific well for this water right, they can do that in the future through a water right transfer. Condition X59 will need to be adjusted to list the correct parcels where the two remaining points of diversion are located. Condition X 59 should state the following:

Point of diversion is located within Lot 2, Blk. 3; Kentucky Ridges Estates Subdivision and Lot 1, Blk. 10; Meridian Heights Subdivision No. 2.

I will included condition WB5 for in-house use that will describe that this permit is for 53 homes for in-house use and doesn't include any irrigation use. I will carry conditions 004 and 01M forward to licensing and ensure the most current version is used.

The 2019 aerial image below shows the place of use in yellow that can be attributed to this permit, and the yellow dots show the points of diversion (wells) that are still existing for this subdivision. As noted above, the well in the SENE of Section 25 in Township 3 North, Range 1 West, has been abandoned, and will not be included on this license. There are no other wells in the SENE of Section 25 in Township 3 North, Range 1 West for the City of Meridian other than this abandoned well. There are also no private parcels in the SENE of Section 25 in Township 3 North, Range 1 West owned by the City of Meridian or a home owner's association that would provide a location for a new well to be included in this 40 acre tract. It appears as though the City of Meridian would need to acquire a private parcel in this 40 acre tract, or file a water right transfer to move the well to a different legal description if they want to add an additional well to this right.



## Nelson, Dan

---

**From:** Nelson, Dan  
**Sent:** Friday, October 23, 2020 11:48 AM  
**To:** 'Charles Honsinger'  
**Subject:** RE: Permit No. 63-12157

Hi Charlie,

I just checked on this one, and it is in Angie's office. Angie is still working through some things with this one. I will let you know if there is anything we need from you if I get it back.

Thank you for checking on it.

Dan Nelson

**From:** Charles Honsinger [mailto:honsingerlaw@gmail.com]  
**Sent:** Friday, October 23, 2020 11:24 AM  
**To:** Nelson, Dan <Dan.Nelson@idwr.idaho.gov>  
**Subject:** Re: Permit No. 63-12157

Dan: I don't have any information on this, nor can I find it on the website. Am I just an idiot, or is it still pending?

Thanks.

Charlie

Charles L. Honsinger  
Honsinger Law, PLLC  
P.O. Box 517  
Boise, ID 83701  
Phone: (208)863-6106  
Fax: (208)908-6085  
[honsingerlaw@gmail.com](mailto:honsingerlaw@gmail.com)

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On Fri, Mar 6, 2020 at 3:58 PM Nelson, Dan <[Dan.Nelson@idwr.idaho.gov](mailto:Dan.Nelson@idwr.idaho.gov)> wrote:

Hi Charlie,

It is currently in my supervisor's office for review of the conditions. I just spoke with her and she said it will still be a couple of weeks before she can get to it. As soon as she approves the conditions, I can send it out.

Dan Nelson

**From:** Charles Honsinger [mailto:[honsingerlaw@gmail.com](mailto:honsingerlaw@gmail.com)]  
**Sent:** Friday, March 06, 2020 2:49 PM  
**To:** Nelson, Dan <[Dan.Nelson@idwr.idaho.gov](mailto:Dan.Nelson@idwr.idaho.gov)>  
**Cc:** Kyle Radek <[kradek@meridiancity.org](mailto:kradek@meridiancity.org)>  
**Subject:** Re: Permit No. 63-12157

Dan: I am sending you this email in addition to leaving you a telephone message earlier this afternoon.

We are hoping that IDWR will be able to get us the amendment you were referring to in your most recent email regarding this matter, and that we can wrap up this matter to the satisfaction of both the City and IDWR. Can you please let me know the status of the proposed amendment?

Thank you Dan.

Charlie Honsinger

Charles L. Honsinger

Honsinger Law, PLLC

P.O. Box 517

Boise, ID 83701

Phone: (208)863-6106

Fax: (208)908-6085

[honsingerlaw@gmail.com](mailto:honsingerlaw@gmail.com)

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On Tue, Dec 10, 2019 at 10:29 AM Nelson, Dan <[Dan.Nelson@idwr.idaho.gov](mailto:Dan.Nelson@idwr.idaho.gov)> wrote:

Charlie,

Sounds good. I will send out the amendment as soon as I can. I will want my supervisor to review the conditions on the amendment before I send it out. The amendment for licensing purposes will reflect the conditions on the license, so it may take some time to make sure everything is correct.

Dan Nelson

**From:** Charles Honsinger [mailto:[honsingerlaw@gmail.com](mailto:honsingerlaw@gmail.com)]

**Sent:** Tuesday, December 10, 2019 10:25 AM

**To:** Nelson, Dan <[Dan.Nelson@idwr.idaho.gov](mailto:Dan.Nelson@idwr.idaho.gov)>

**Cc:** Kyle Radek <[kradek@meridiancity.org](mailto:kradek@meridiancity.org)>

**Subject:** Re: Permit No. 63-12157

Dan: Yes. Please send out the draft amendment. Kyle and I will review it and get back to you. Thanks.

Charlie

Charles L. Honsinger

Honsinger Law, PLLC

P.O. Box 517

Boise, ID 83701

Phone: (208)863-6106

Fax: (208)908-6085

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On Tue, Dec 10, 2019 at 10:12 AM Nelson, Dan <[Dan.Nelson@idwr.idaho.gov](mailto:Dan.Nelson@idwr.idaho.gov)> wrote:

Hello Charlie,

As I started to write up this exam, I thought about something that I didn't include in my letter. If the City of Meridian wishes, we could amend this permit to a municipal permit with all of the City of Meridian's wells as points of diversion, and the place of use as the City of Meridian's service area. The permit will still be licensed for 0.36 cfs and 33.6 af, but it could be used anywhere within the service area and from any of their wells. I would create the amendment and send it out to you and the City, and if acceptable, they would sign it and return it with a \$100 amendment fee. This would be cheaper and easier than trying to do this after it is licensed.

Let me know what you think, and if this acceptable, I would prepare the amendment and send it in for review.

Daniel Nelson

Water Right Analyst 3

Idaho Department of Water Resources

Telephone (208) 287-4856

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

**From:** Charles Honsinger [mailto:[honsingerlaw@gmail.com](mailto:honsingerlaw@gmail.com)]  
**Sent:** Friday, December 06, 2019 3:24 PM  
**To:** Nelson, Dan <[Dan.Nelson@idwr.idaho.gov](mailto:Dan.Nelson@idwr.idaho.gov)>  
**Cc:** Kyle Radek <[kradek@meridiancity.org](mailto:kradek@meridiancity.org)>  
**Subject:** Permit No. 63-12157

Dan:

Per our telephone conversation of earlier this afternoon, the City of Meridian chooses to avail itself of Option a listed in your November 21, 2019 letter to the City regarding the above-referenced permit. We understand that IDWR will license water right no. 63-12157 for only the in-house domestic component with a volumetric limitation of 33.6 AFA.

I believe this email is the documentation of the City's decision that you are looking for. If you need anything else, please let me know. Thank you.

Sincerely,

Charles L. Honsinger

Honsinger Law, PLLC

P.O. Box 517

Boise, ID 83701

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## MEMORANDUM

TO: Water Right File 63-12157

FROM: Daniel Nelson – Analyst 3

DATE: December 10, 2017

SUBJECT: Licensing Review of Water Right 63-12157

This field exam for this right was performed by Dan Tomich from Western Region in 1999.

This permit was originally filed by Shekinah Industries Inc. In 1998, the permit was assigned to Meridian Heights Water & Sewer Association who assigned the permit the Meridian Heights Water & Sewer District in 2013. The City of Meridian then filed a Change of Ownership form for this permit in 2017.

Department staff recommended a 0.26 cfs and 58.5 af for irrigation and 0.36 cfs and 33.6 af for domestic purposes with the domestic use being limited to in-house use only. The field exam was held pending the finalization of the mitigation plan as required in condition 10 of the permit. The field examiner did state that surface water was diverted to a pond from the Sundall Lateral, but he didn't provide any information on the amount of water recharged.

Department staff met with representatives of Meridian Heights Water & Sewer Association in 2013, and informed them of several options to move this permit forward to licensing. There was no further communications in the file concerning the finalization of the recharge plan.

On November 21, 2019, I reached out to the City of Meridian in a letter, and they determined that they wanted to remove the irrigation component from the permit. Please see the email from the City of Meridian's attorney, Charles L. Honsinger, on December 6, 2019. Since the permit now is only for domestic use for in-house use only, the recharge plan is no longer needed.

In email conversations with their attorney on December 10, 2019, they also decided that they would like to change the nature of use from domestic to municipal. They also wish to have the place of use as their service area and the point of diversion to reflect all of the wells on their water system. The diversion rate and volume will continue to be limited to the diversion rate and volume found by the field examiner, but this will allow them more flexibility for this water right. It is my understanding that the wells originally developed for this permit don't meet water quality standards without significant treatment, so this change does make sense.

I agree with the diversion rate and volume determined by the field examiner for the in-house domestic component for this permit. Mr. Honsinger stated in the December 10, 2019, email that they would like to have all of the points of diversion on their permit and the place of use to be their service area. I used the latest information found in water right transfer number 81351 that was approved in 2017 for the points of diversion and place of use. By sending out the amendment for licensing purposes, this should also provide the City of Meridian the ability to review the points of diversion, place of use, and conditions proposed prior to licensing the water right.

**Conditions:**

Whereas this permit is being changed from a domestic and irrigation right to a municipal right the conditions will need to be adjusted for a municipal right. The irrigation portion wasn't mitigated, and was removed from the permit per Mr. Honsinger's December 6, 2019, email. Therefore, the only portion of this permit that we can move forward with is the non-consumptive in-house use that doesn't require mitigation.

Conditions 124 and 180 will need to be added to address the place of use and map supplied for the large place of use.

A condition will also be added to limit the use of this permit to internal use only and that it doesn't authorize any irrigation use. In conjunction with this premise, condition 027 will need to be added to ensure that this right is only used for non-consumptive uses.

Since the mitigation was removed from this permit, condition 103 will need to be added onto the permit. Standard conditions 01M and 004 will be carried forward to licensing. The system is already measured. However, this permit did not require any measurement devices, and it would not be reasonable to require measurement under this permit.

**Nelson, Dan**

---

**From:** Nelson, Dan  
**Sent:** Tuesday, December 10, 2019 10:30 AM  
**To:** 'Charles Honsinger'  
**Subject:** RE: Permit No. 63-12157

Charlie,

Sounds good. I will send out the amendment as soon as I can. I will want my supervisor to review the conditions on the amendment before I send it out. The amendment for licensing purposes will reflect the conditions on the license, so it may take some time to make sure everything is correct.

Dan Nelson

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Let me know what you think, and if this acceptable, I would prepare the amendment and send it in for review.

Daniel Nelson

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**Subject:** Permit No. 63-12157

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I believe this email is the documentation of the City's decision that you are looking for. If you need anything else, please let me know. Thank you.

Sincerely,

Charles L. Honsinger

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P.O. Box 517

Boise, ID 83701

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Fax: (208)908-6085

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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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

November 21, 2019

CITY OF MERIDIAN  
33 E BROADWAY AVE  
MERIDIAN ID 83642-2619

RE: Water Right Permit 63-12157

Ladies and Gentlemen:

I have been asked to complete the licensing process for permit 63-12157. Unfortunately, this permit was held until the Idaho Department of Water Resources (Department) could confirm that the conditions of approval had been met. I feel I need to go into a bit of the history of this permit to help you understand what is needed to move this permit forward in the licensing process.

On October 25, 1994, the Department received an application for permit from a Shekinah Industries Inc. The application was approved on June 5, 1995, as permit number 63-17157. On October 2, 1998, the permit was assigned to Meridian Heights Water and Sewer Association, who filed the Proof of Beneficial Use Statement claiming the permit had been fully developed and all of the conditions of the permit had been met. On July 25, 2013, the permit was assigned to Meridian Heights Water and Sewer District. On July 23, 2013, Department staff met with Centra Consulting Inc. Centra Consulting Inc. represented Meridian Heights Water and Sewer Association in the preparation of the recharge plan required in the permit. On September 20, 2017, the Department received a change of ownership showing the City of Meridian as the new owners of this permit.

In order for the permit to be approved, the permit had the following conditions that were required to be met:

Place of use is located within Lots 1-18, Blk. 1; Lots 1-3, Blk. 3; Lots 1-13, Blk. 4; & Lots 1-3, Blk. 6; Kentucky Ridge Estates Subdivision.

The irrigation use occurring under this right shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed.

The surface water rights appurtenant to lands within the Kentucky Ridge Estates Subdivision, shall be utilized for (1) the ponds within the subdivision, and (2) a ground water recharge project found to be acceptable by the Director of the department. The right holder is responsible to finalize this recharge project in cooperation with the department prior to licensing of this water right.

Domestic use is for 56 homes.

Domestic use does not include lawn, garden, landscape, or other types of irrigation

On March 10, 1999, the Department performed a field examination. During this field examination, the field examiner states that water from the Sundall Lateral is conveyed to a recharge pond. Water from the well could also be diverted to the pond as needed. The water diverted to the pond was used for recharge and to irrigate a small park. Any excess water diverted to the pond was conveyed to the Riddenbaugh Canal to be used by other water users. The field examiner also found 31.5 acres of irrigation. The permit is limited to a total irrigation use of 13 acres. The water right file also does not have the mitigation plan required in the conditions of permit. The field examiner also found 67 home serviced by this system, but the permit only authorized 56 homes to be serviced by the water system.

There are multiple issues that need to be addressed to move forward with the licensing process for this permit. I will list the items below:

- 1.) The irrigation authorized by this permit was 13 acres, and a total of 31.5 acres were found. I can only license this permit for the 13 acres, but I am not concerned about the additional acres, since water right transfer 82259 was filed on water rights 63-11671 and 63-7307 that incorporated the 3 wells associated with this permit into the City of Meridian portfolio of wells, and also included this subdivision into the City of Meridian's service area. Therefore, the additional acres can be covered by the existing City of Meridian water rights.
- 2.) The permit required mitigation in order to cover the consumptive use of the 13 acres being irrigated from ground water. The original applicant stated he could divert his canal shares to a pond to cover the mitigation needed, but did not provide any further details needed. The permit stated that the permit holder would need to provide a mitigation plan that gave the details of the mitigation needed and the amount of mitigation provided. No mitigation plan has been received by the permit holder.

The original application did state that they planned to use a pond for mitigation, and it was confirmed in the field report that there was a pond at this location. Based on my calculations, the precipitation deficit for lawn grass at the Kuna (NW – USC00105038) ETIdaho station used to calculate the evapotranspiration and consumptive irrigation requirements for Idaho, the 13 acres would have a consumptive use of 42 acre feet (af). This would require 42 af of water be recharged back to the aquifer each season. The permit and the field examination does state that there was a pond to be used for ground water recharge. This pond is approximately 0.3 acres in surface area. Based on the soils in this area, the soils are a silt-clay mix, with gravel below 51 inches. It is reasonable to assume the pond is at least 4.5 feet deep at its deepest point, so using the gravel as a standard. The maximum recharge this pond could provide is approximately 22 af, which still leaves 20 af needed to mitigate the 13 acres of irrigation, so even we could call the proposal in the application for permit a plan, it would not be sufficient to supply the 42 af of water needed to mitigate 13 acres.

- 3.) This permit authorized a maximum of 56 homes on this system. The field examiner found a total of 67 homes being serviced by this system. Once again, I am not too concerned about this issue, since the subdivision has been incorporated into the City of Meridian's service area and the wells have been incorporated into the City of Meridian's well portfolio through water right transfer 82259.

Conclusion:

There are several options available to you at this point.

- a.) You could remove the irrigation component from this permit and we would just license the domestic component for in-house use only with an annual volume limitation of 33.6 af per annum.
- b.) You could provide a mitigation plan and the full mitigation required to allow the irrigation use, but you would need to show that this mitigation has occurred every year since the proof of beneficial use was filed in 1998.
- c.) You could provide a plan that shows a portion of the irrigated acres were mitigated due to ground water recharge, and that that recharge use has been done since proof of beneficial use was filed in 1998.
- d.) You could relinquish this permit and use the City of Meridian's existing rights to cover the water use in this subdivision, and not worry about how to get this permit licensed.

I hope I have given you enough information to make an informed decision on what you wish to do with this permit. Hopefully, we can work together to find a suitable solution for all. If you wish to look at the records associated with this permit, you can find the entire file at <https://idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=63&Sequence=12157&SplitSuffi>  
x= . If you have any questions, please don't hesitate to contact me. I am required to place of  
deadline of 30 days on any request for information. If you cannot provide the information within 30  
days, please don't hesitate to contact me and request additional time if needed. If I do not receive  
any response from you concerning this permit, I will be required to start the process to void this  
permit.

Respectfully;

A handwritten signature in black ink, appearing to read 'Daniel Nelson', followed by a long horizontal flourish line.

Daniel Nelson  
Water Right Analyst 3  
Idaho Department of Water Resources  
Email: dan.nelson@idwr.idaho.gov  
Telephone (208) 287-4856  
Fax (208) 287-6700 (attn: Dan Nelson)