

RECEIVED  
NOV 02 2020  
Department of Water Resources  
Eastern Region

**Lance and Lisa Funk Partnership  
Annual Water Right Report for  
35-14240, 35-14655, 35-14241, 35-  
14242 and 35-14243**

Prepared for: Lance Funk

P.O. Box 310  
American Falls, Idaho 83211

November 2, 2020

For information concerning this report, contact  
Greg Sullivan, MS, Engineer



**BROCKWAY**  
ENGINEERING  
PLLC

CHARLES E. BROCKWAY, PH.D., P.E.  
CHARLES G. BROCKWAY, PH.D., P.E.  
ERICK POWELL, PH.D., P.E.

2016 NORTH WASHINGTON, SUITE 4  
TWIN FALLS, IDAHO 83301

Water right permits 35-14240, 35-14241, 35-14242 and 35-14243 were approved by the Idaho Department of Water Resources on March 3, 2015. A condition set forth by IDWR for these permits requires that "By December 1st of each year, the right holder shall provide a written report to the Department describing the number and location of acres irrigated that year, the volume of water diverted under this right, the source of mitigation for the next irrigation season, and the number and location of acres proposed to be irrigated in the following year." This report satisfies the condition set forth by IDWR for water right permits 35-14240, 35-14241, 35-14242 and 35-14243.

Additionally, a condition was set for these permits by IDWR regarding an annual site inspection of the system and water use. The condition states, "As resources allow, the Department will conduct at least one in-person field examination of the authorized place of use of this right each year to verify the required mitigation and authorized irrigation under this right prior to June 15th of each year. It shall be the responsibility of the right holder to follow up with the Department by June 15th of each year to determine if the field examination was performed. If the Department is unable to conduct the field examination for any reason, the right holder or its consultant shall perform the field examination and report findings from the field examination to the Department and the protestants to this right by July 15th of each year."

Water right transfers 83782 and 83781 were approved by IDWR on April 16, 2020. The transfer shifted 46.7 acres of the allowed irrigated acres around with some of the more senior water rights on the farm. No additional acres were transferred into the farm. No acres were transferred off of the farm. Water right license 35-14655 was split off of water right license 35-14240.

On June 26, 2020 Greg Sullivan of Brockway Engineering performed a site visit of the farm and verified that water right licenses 35-14240, 35-14655, 35-14241, 35-14242 and 35-14243 were being fully utilized. Irrigation was occurring within the authorized POUs and the water was only being provided by the approved PODs.

At the time of the site visit in July, all flow meters have been installed. Two meters have been installed at the POD for 35-14243 because there is a 15 inch and an 18 inch mainline delivering water from the well. Data from the flow meters is available on the Water Management Information System (WMIS) data system managed by IDWR regarding annual volumes pumped from ground water wells.

Full irrigation occurred under water rights 35-14240, 35-14655, 35-14241, 35-14242 and 35-14243 irrigation season for 2020. Water right license 35-14240 provided 122.0 acres of irrigation. Water right license 35-14655 provided 46.7 acres of irrigation. Water right license 35-14241 provided 369.1 acres of irrigation. Water right license 35-14242 provided 119.5 acres of irrigation. Water right license 35-14243 provided 659.0 acres of irrigation.

No changes in the authorized POU, PODs or ownership changes are expected during the calendar year of 2021 for water rights 35-14240, 35-14655, 35-14241, 35-14242 and 35-14243.

The source of mitigation to the above-referenced water rights has historically been Water Right Nos. 35-14014 and 35-14015. In 2017, Power County completed the bonding process to purchase these water rights from Magnolia Nitrogen Idaho, LLC. With the purchase of Water Right Nos. 35-14014 and 35-14015 completed, the title to these water rights was changed to Power County.

Subsequent to the purchase of Water Right Nos. 35-14014 and 35-14015, Power County requested that IDWR rescind a prior transfer (Transfer No. 75417) that moved these water rights from administrative basin 29 to administrative basin 35. On June 12, 2017, IDWR rescinded Transfer No. 75417, and determined that "the water rights should be renumbered to their original water right numbers (29-2284 and 29-2301)." Preliminary Order

Rescinding Transfer at 2, available at  
[http://www.idwr.idaho.gov/apps/ExtSearch/DocImages/zmkw01\\_.PDF](http://www.idwr.idaho.gov/apps/ExtSearch/DocImages/zmkw01_.PDF).

In 2019, Power County leased Water Right Nos. 29-2284 and 29-2301 to the Aberdeen American Falls Ground Water District ("AAFGWD") to be used by the AAFGWD as a mitigation source of 6,153.8 acre-feet associated with the AAFGWD's obligations under the Settlement Agreement Entered into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participation Members of the Idaho Ground Water Appropriators, Inc. and its addenda. AAFGWD has verbally indicated that it will sublease Water Right Nos. 29-2284 and 29-2301 to Lance and Lisa Funk for the 2021 irrigation season provided that the Funks, on behalf of the AAFGWD, arrange for 6,153.8 acre-feet of ground water recharge to be performed. The sublease agreement has not yet been finalized and executed, but it is anticipated that it will be executed prior to the commencement of the 2021 irrigation season (April 1, 2021). The Funks and the AAFGWD are in the process of setting the arrangements for the ground water recharge to occur, and it is anticipated that those details will likewise be contained in the sublease agreement between the parties.

Accordingly, because the source of mitigation for the above-referenced licenses is the same, there remains sufficient mitigation consistent with the conditions of the above-referenced licenses, which require the license holder to maintain the legal right to use Water Right Nos. 35-14014 and 35-14015 (now numbered as 29-2284 and 29-2301). Because the Funks have maintained the legal right to use these water rights, the licenses will be exercised in 2021 as they have been historically.