

## MEMORANDUM

DATE: 3/20/20

TO: 43-13731, 43-13732, 43-13733, 43-13734, 43-13735, 43-13736, 43-13737

FROM: Phill Hummer

RE: IWRB Recharge Approval and Extension Request Review

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On January 22, 2020 the Department received requests for extension of time to submit proof of beneficial use for the above mentioned water right permits. These permits were initially submitted as two applications and were subsequently split into 7 separate permits. The permits were approved for a combined annual diversion volume of 20,000 af for ground water recharge and are therefore likely subject to review by the IWRB per the requirements of Idaho Code §42-1737. Although, one interpretation of the criteria in 42-1737 is that IWRB approval must be obtained before project construction and the diversion of water can begin. In practice that is not how IWRB has operated. The IWRB is aware of these permits and the recharge projects that will be operating under them. As part of the conditional withdrawal of the protest filed against the original applications Idaho Power Company submitted a Memorandum of Agreement related to the implementation of managed ground water recharge as part of the ESPA CAMP. This agreement recognizes the IWRB involvement in ground water recharge projects and was signed by Terry Uhling (Chairman of IWRB). Whether or not the permittees have complied with the requirements of 42-1737 is not being evaluated at this time. Evidence in the files suggest IWRB is aware of these projects and is working within their policies and rules.

An extension request can be granted for up to 10 years beyond the initial development period for any permit involving the diversion of more than 2.00 cfs if the permittee has exercised reasonable diligence and good cause exists. As evidence that work has been completed, the permittee has provided descriptions of the diversion system and recharge a system at each site (each permit is for a separate recharge site). With the exception of the Sheridan site permit no 43-13736, which does not have a system in place but the permittee has indicated has been working on an alternative system. For each site the permittee has provide an explanation of additional work that needs to be accomplished before full development of the permits can occur. These include; establishing a new delivery system, well construction, flood repairs, and device installation and repair. The descriptions of work completed and pending work show reasonable diligence and good cause. These extension requests should be approve per Idaho Code § 42-204(4).