

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
IN-OFFICE REVIEW/BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATIONPermit No: 84-12281Exam Date: 4/26/20171-30-19 *Done*

1. Does this qualify for an in-office field exam (IDAPA 035.02.r)? X Y N
- Irrigation of 5 acres or less
 - Storage of up to 14.6 AF for stockwater purposes only
 - Any use other than irrigation or storage, if the combined diversion rate is 0.24 cfs or less
 - Other < >

2. Current Owner: Name: Linda Moores and Gerald Moores
Owner of Record Correct? X Y N
Address of Record Correct? Y N
If No: Address

Tax lot data shows Gerald L. and Lynda D. Moores as the owners of the property.

3. Beneficial Use Fees have been paid: X Y N Receipt No: C106164

4. **SOURCE**

Ground Water

Method of Determination: GIS and Tax Parcel DataChange in Source: Y X N**B. OVERLAP REVIEW**

1. Other water rights with the same place of use: NO Overlap

Water Right No.	Source	Purpose of Use	Basis

Comments: There are no existing water rights that overlap this place of sue or point of diversion. However, a change of ownership was filed on water right 84-10636 by the permit holder. The change of ownership tried to split the single family domestic water right 84-10636, with a portion of that right going to the permit holder. However, after a review of the change of ownership, it was discovered that 84-10636 was actually filed in the wrong legal description. Attempts were made to correct this situation, but it has never been resolved. The only option available to the permit holder was to file a new application for permit for the two homes on their property, which is this permit. The owner of the original property has never clarified the legal description for water right 84-10636, so it is still shown as being in a different legal description. Please see the copy of the letter dated September 26, 2013 attached to this report that clearly explains the situation with water right 84-10636. There are a couple of other rights in the same 40 acre tract, but they are for properties southwest of the property involved with this permit.

2. Other water rights with the same point of diversion: NO Overlap

Water Right No.	Source	Purpose of Use	Basis

Comments: There are no existing water rights that overlap this place of sue or point of diversion. However, a change of ownership was filed on water right 84-10636 by the permit holder. The change of ownership tried to split the single family domestic water right 84-10636, with a portion of that right going to the permit holder. However, after a review of the change of ownership, it was discovered that 84-10636 was actually filed in the wrong legal description. Attempts were made to correct this situation, but it has never been resolved. The only option available to the permit holder was to file a new application for permit for the two homes on their property, which is this permit. The owner of the original property has never clarified the legal description for water right 84-10636, so it is still shown as being in a different legal description. Please see the copy of the letter dated September 26, 2013 attached to this report that clearly explains the situation with water right 84-10636. There are a couple of other rights in the same 40 acre tract, but they are for properties southwest of the property involved with this permit.

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

Source	Govt. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.		County
Well			NW	SE	3	37N	5E	B.M.	CLEARWATER
								B.M.	
								B.M.	

Method of Determination: GIS and Tax Lot data.Change in POD? X N Amendment Required? X N**2. PLACE OF USE:** Use: Domestic

TWP	RGE	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
37N	5E	3														D			
		Lot #																	
Total Acres =																			

Method of Determination: GIS and Tax Lot Data - Please see the explanation of the legal description in the maps and the narrativeChange in POU? X N Amendment Required? X N Delivery System Diagram Attached (required). Indicate all major components and distances between components.

Indicate weir size/pipe as applicable.

 X 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
Well	Unknown				

*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
NONE						

2. Measurements: No measurement is required for an in-house exam.

E. FLOW CALCULATIONS

Attached

YES Additional Computation Sheets

Measured Method:

There was very little information in the file describing the pumping system for this permit, I used Processing Administrative Memorandum #22 to determine the diversion rates/

**Processing Administrative Memorandum #22 = 0.06 for in-house use for 2 Homes.
Permit allowed = 0.06 cfs**

Although an additional diversion rate could have been given for the ½ acre of irrigation per home, the permit was limited by the in-house limit provided in Processing Administrative Memorandum #22 of 0.06 cfs. Therefore, I am limited by the permitted amount of 0.06 cfs.

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\hspace{2cm}}$$

$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} = \underline{\hspace{2cm}}$$

2. Volume Calculations for Other Uses:

Processing Administrative Memorandum #22 allows 0.6 af per home and 0.6 af for a ½ acre of yard irrigation. The entire lot that associated with the place of use is ½ acre in size, so we should not allow more than ½ acre of yard irrigation. There are two homes and up to a ½ acre of yard irrigation, so this permit can authorize a total of 1.8 af.

G. PURPOSE OF USEIrrigation Y N # Stock Domestic # of Homes 2

Other: < >

Change in Purpose of Use? Y N Method of Determination: Taxlot data and conversations with owner.If Yes: From Use To Use Amount CFS AFA **H. NARRATIVE/REMARKS/COMMENTS**

This permit qualifies for an in-house field examination. This permit has a rather long history. Water right decree 84-10636 was field in the Snake River Basin Adjudication for domestic use for a single home. At the time, the owner of water right 84-10636 owned the parcel south of the place of use for this permit, and the parcel associated with this permit. However, the owner of 84-10636 filed the original claim in the Snake River Adjudication using the wrong legal description, and the right was subsequently decreed with the incorrect legal description. The property was then split. The main property with the well was sold to Mr. Schultz, and the other parcels with the two cabins was sold to the Moores and the Wyatts. In the sale of the property, the original owner tried to split the single family domestic use for his property with the Moores and Wyatts. The ownership change was eventually denied because of the legal description and that it was for only one home. The two owners of the split portion filed this permit to cover the water from the original owner's well. There is only one well for the two parcels and three homes. Recently, the Moores, purchased the Wyatt's portion of this permit and have filed an assignment of permit to place all of this water right into their name. At this time, no water right that covers water use for the Schultz property, so it is assumed that the water use for the Schultz property is based on the exempt water use allowed by Idaho Code § 42-111 and § 42-227.

The tax parcel for the place of use in this permit currently crosses over the 40 acre tract line. In review of the records, I found that the parcel was actually altered through a lot line adjustment deed supplied by Clearwater County. It appears as though the permit holder exchanged some lands with Potlatch Forest Holdings, Inc. It appears as though it changed the parcel from a triangle looking parcel totally in the NWSE of Section 3 to a rectangular parcel running parallel to Highway 11 including a portion of the SWNE of Section 3. The permit was issued based on the original parcel in the NWSE, and did not include the NWSE. From the information available from Clearwater County, it appears as though both homes are located mainly in the NWSE, with a small corner of one of the homes in the NWSE. There is no need for an amendment of permit, since the domestic uses are in the NWSE.

Another issue arose through a discrepancy between the 40 acre tract line separating the NWSE and the SWNE shown by Clearwater County and the 40 acre tract line shown in the Department's Public Land Survey (PLS). Please see attached maps. A review of the Bureau of Land Management (BLM) records shows that the 40 acre tract lines were not drawn in as part of the original survey, and no additional survey has been done for Section 3. Therefore, the only true survey that has been done showing the 40 acre tract line is the survey available from Clearwater County. The place of use recommended for this permit will be aligned with the Clearwater County surveyed 40 acre tract line. The shape file for the place of use will creep across the Department's 40 acre tract line, but it will be described in the water right as being totally in the NWSE.

The majority of the conditions on the permit will be removed at licensing. Conditions ~~003, 004, and 187~~ ^{046, 260A, and 187}. Condition 187 limits the irrigation associated with this domestic use for 2 homes to ½ acre of irrigation. It is reasonable to limit the irrigation to maximum of ½ acre, since the parcel is less than ½ acre. There is no need to allow a ½ acre per home, since it simply isn't possible.

Have conditions of permit approval been met? ☒ Yes ☐ No

I. RECOMMENDATIONS

1. Recommended Amounts

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Domestic	01/01 to 12/31	0.06 CFS	1.8 AF
<u>Totals:</u>		0.06 CFS	1.8 AF

Please Note: This is a surface water right, so no volume will be included on the water right license.

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ None

Other: < >

J. AUTHENTICATION – DANIEL A. NELSON – WATER RIGHT ANALYST 3

Field Examiner's Name



Date

1-30-19

Reviewer



Date

2/24/19

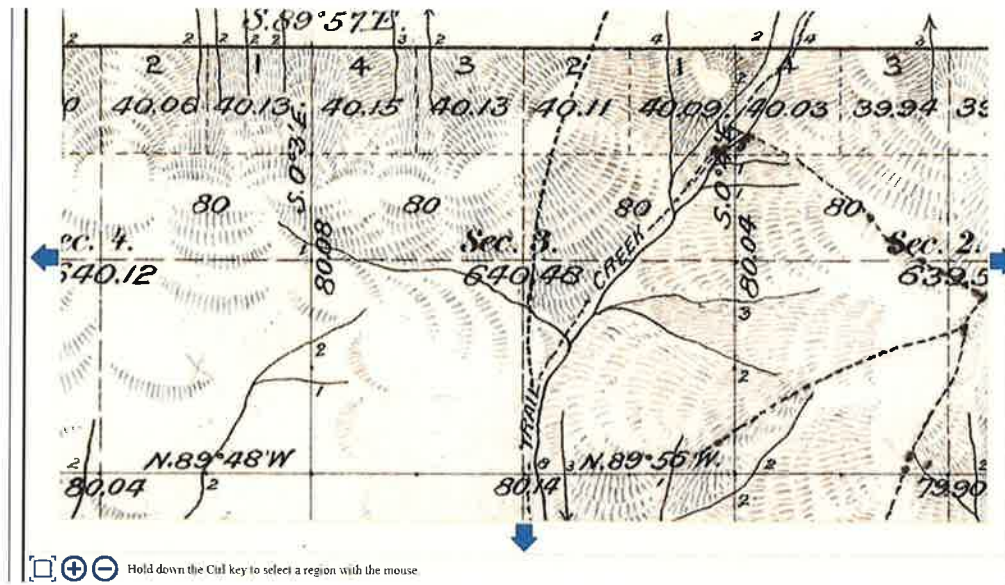
Permit 84-12281 Field Exam Map

The following is the field exam map for permit 84-12281. The point of diversion is shared between the three houses shown in the aerial photo. The point of diversion is from the application for permit. There was no well driller's location in the GIS mapping program, so I marked the point of diversion close to the shed behind the neighbor's house. This should be a reasonably accurate location for the well. The yellow border below shows the place of use. You will notice that the place of use goes over the 40 acre tract line available to the Department, but the white line is the surveyed 40 acre tract line used by Clearwater County. Please see the attached maps for a more in-depth discussion concerning the proper legal description. The point of diversion and the place of use will all be in the NWSE of Section 3 of Township 37 North, Range 5 East. You will notice that a portion of the tax parcel and possibly a slight portion of one the cabins may be in the SWNE, but there is enough room for error in the tax parcels, imagery, and 40 acre tract lines, that it doesn't seem reasonable to request an amendment of permit to cover the portion of the tax parcel in the SWNE that may or may not have a piece of a home in that legal description.



Permit 84-12281 Maps and photos

The following image shows the BLM Plat map for the area associated with the permit. As you can see the 40 acre lines are not included in the map, and have not been surveyed.



The image below shows the County Tax parcels from Clearwater County. As you can see, they did not use any 40 acre parcel lines in their mapping. However, they did have section lines, and they clearly show the tax parcels are based on the section lines available to their office. Their section lines do not match the section lines in the Department's mapping system.



Permit 84-12281 Maps and photos

This is an aerial photo from the Department's GIS system. The white lines show the 40 acre tract lines based on Clearwater County 40 acre tract designation, and the yellow lines show the Department's 40 acre tract designation. The BLM has not surveyed in the 40 acre tract lines, so the Department has drawn those lines in to the best of their ability. However, the Department's lines are un-surveyed and are subject to interpretation. The county lines are based on a survey completed by High Country Land Surveying, so they should be considered the most accurate interpretation of the 40 acre tract lines. The permit only describes the place of use as being in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3 of Township 37 North, Range 5 East. Using the official survey, it appears as though both homes are mainly in the NWSE. Only a small portion of the northern most home is in the SWNE. Since this is question on the registration of the 40 acre tract lines and possibly the aerial photo, I am reluctant to require an amendment to include the SWNE in the place of use description, because the majority of both homes are in the NWSE according to the official survey. Please see the attached Record of Survey to show the designations of the 40 acre tract lines and the location of the parcel associated with this permit.

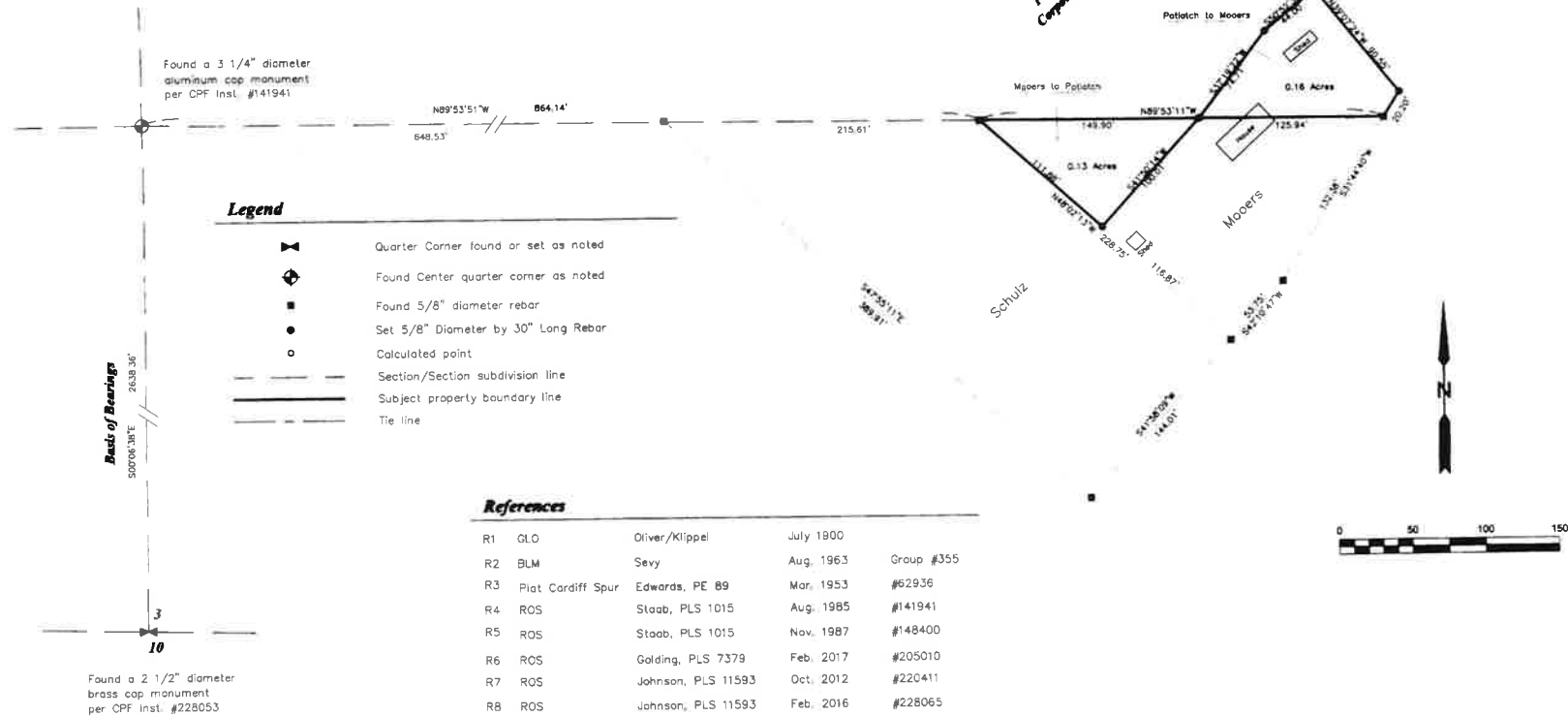


Permit 84-12261 - Clearwater County Plat Map

Record of Survey **Township 37 North, Range 5 East,** **Section 3, Boise Meridian,** **Clearwater County, State of Idaho**

Notes

- 1) The Basis of Bearings for this survey was established from GPS observations.
- 2) This survey was performed using Topcon HiPer II GPS and a Topcon 3005W total station.
- 3) This survey has an unadjusted mathematical error of closure exceeding the required minimum of one (1) part in 5000.
- 4) No attempt was made to show all the physical features of the property.
- 5) The purpose of this survey is to adjust the boundary line between Mooers and Potlatch Corporation to relieve encroachment issues.



References

R1	GLO	Oliver/Klippel	July 1900	
R2	BLM	Sevy	Aug. 1963	Group #355
R3	Plat Cardiff Spur	Edwards, PE 89	Mar. 1953	#62936
R4	ROS	Staab, PLS 1015	Aug. 1985	#141941
R5	ROS	Staab, PLS 1015	Nov. 1987	#148400
R6	ROS	Golding, PLS 7379	Feb. 2017	#205010
R7	ROS	Johnson, PLS 11593	Oct. 2012	#220411
R8	ROS	Johnson, PLS 11593	Feb. 2016	#228065

County Records Certificate

State of Idaho, County of Clearwater
Recorded at the Request of
At _____ This _____ Day of _____

Recorder _____

Deputy _____

Surveyors Certificate

This Record of Survey correctly represents a survey made by me or under my direction in accordance with the State of Idaho Survey Recording Act and at the request of Potlatch Corporation.



230187

High Country Land Surveying

419 Cedar Drive

Pierce, Idaho

208-464-1041

Instrument # 230187
Recorded at _____
Recorded by _____
Recorded on _____
Surveyor's Name _____
Date of Survey _____

Permit 84-12281 Maps and photos

The image shown above shows a Google Earth aerial photo of the property and the neighboring property where the well is located. The bottom two photos were taken from Google Maps – Street View – and show the two homes and how closely they are located to each other.





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720 0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 26, 2013

LINDA D MOOERS
GERALD L MOOERS
JOHN R WYATT
SANDRA J HAENER
3457 ELKS DR
LEWISTON ID 83501

RE: Water Right 84-10636 (Split into 84-12251 and 84-12252)

Dear Water Right Holders,

I am contacting you to follow up on an issue related to processing a Notice of Change in Water Right Ownership in connection with domestic water right 84-10636. When the Notice of Change in Water Right Ownership for 84-10636 was submitted in 2007 (enclosed), the Idaho Department of Water Resources (IDWR) erroneously processed the requested change by splitting the original right 84-10636 into 84-12251 and 84-12252, and changing the name on the portion identified as 84-12252 to reflect ownership by Mooers, Whyatt, and Haener. IDWR should not have processed the ownership change because the deed submitted with the change of ownership request does not match the place of use (POU) and point of diversion (POD) authorized by right 84-10636.

Water Right Agent Monica VanBussum was in contact with Linda Moore in July of 2010, attempting to work toward resolution of this issue. However, I can't see in the file that a resolution was ever reached. Because it has been so long since Monica contacted you, I thought I would explain in more detail why the change of ownership request needs to be reversed and then discuss some options to establish a water right for your use.

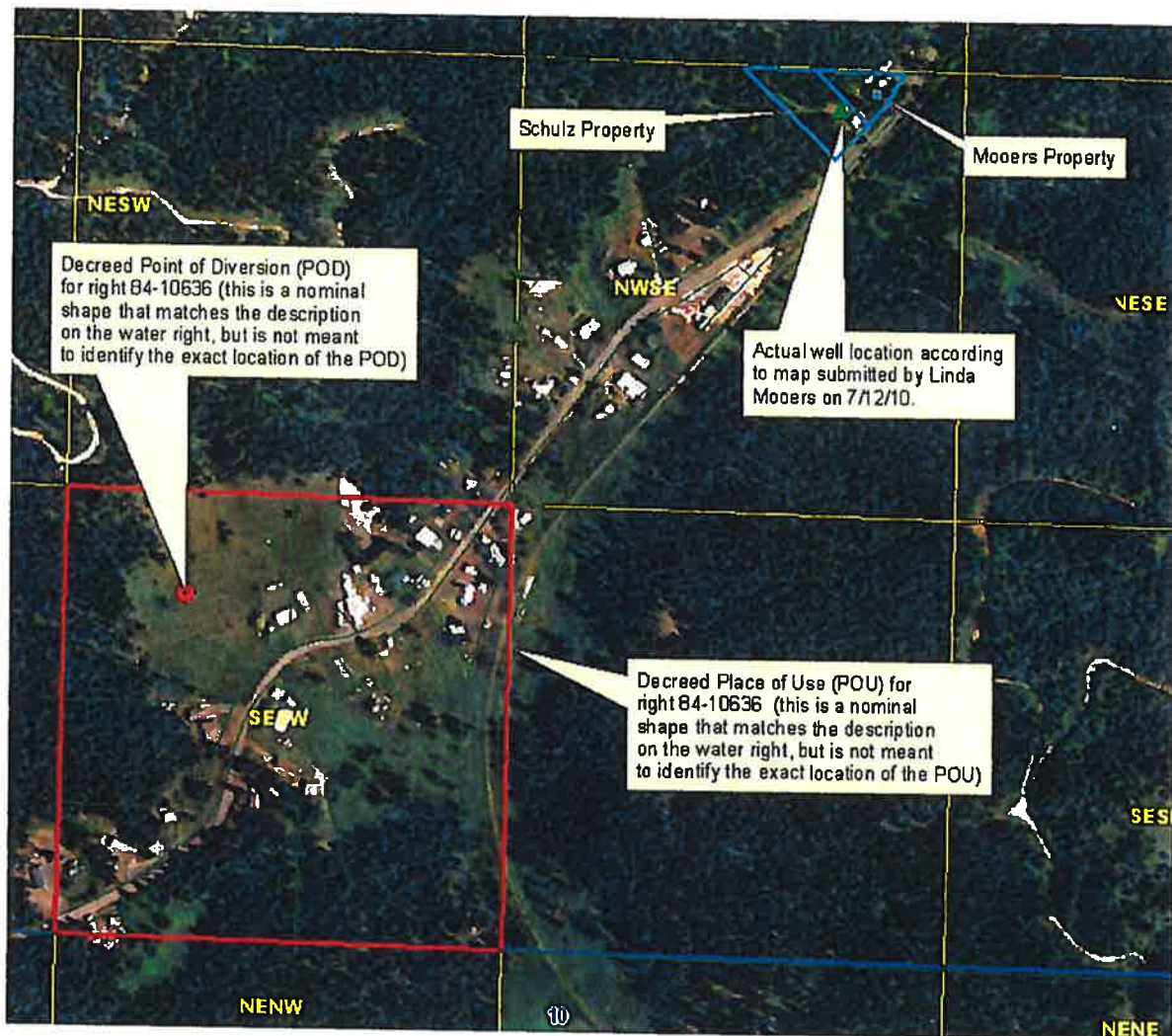
Background:

On December 20, 2000, the Snake River Basin Adjudication (SRBA) court decreed water right 84-10636 to Don Imel authorizing domestic use for 1 home (enclosed). The decree record for 84-10636 listed the place of use as being in the ~~SE¼ SW¼~~ of section 3 and the POD as being in the NW¼ ~~SE¼ SW¼~~ of section 3, Township 37N, Range 5 E (Figure 1).

However, the deed submitted with the change of ownership describes the property as being in the NW¼SE¼ of section 3 Township 37N, Range 5 E.

Because a water right is applicable to the land, in order to change ownership of a water right, you must show ownership of the land that the water right is applicable too. The deed you supplied with the change

of ownership describes property that doesn't match the place of use authorized under water right 84-10636. Therefore IDWR shouldn't have split right 84-10636 and changed ownership of the split portions.



Because the warranty deed submitted with the change of ownership in 2007 specifically identifies that a portion of water right 84-10636 is conveyed to Moors, Wyatt, and Haener, it would appear that water right 84-10636 was simply decreed in the wrong place. I looked into the history of the right to see if where the discrepancy started and if there was an easy way to resolve the issue.

Don Imel filed a water right claim in the Snake River Basin Adjudication (SRBA) on September 27, 1988. At that time, he claimed that the location of the POD and POU were in the ~~SE~~SW of section 3 (wrong location). The claim was then recommended to the SRBA court with the same legal description as claimed and subsequently the court issued a decree describing the POD and POU in the ~~SE~~SW of section 3. Therefore, the discrepancy in the POU descriptions stem back to the original claim filed in 1988.

What's next:

IDWR has had to recombine rights 84-12251 and 84-12252 back into right 84-10636.

Since the property that Don Imel developed water right 84-10636 has been split, the water right is applicable to the original domestic structure. I should re-emphasize that water right 84-10636 states that its use is for 1 domestic home. The records in the file don't clearly tell me who the owner of the original home currently is. The next steps to be taken depend on if you are the owner of the original domestic residence or if you are the owner of the domestic residence(s) to which domestic use was established later in time:

- 1) If you are not the owner of the original domestic residence that Don Imel developed 84-10636 in connection with, you need to file a new application for permit for a new water right. This will secure a water right for your home(s). A new application for permit will cost \$100. For your convenience, I have enclosed an application for permit, or you can download a digital form at www.idwr.idaho.gov.
- 2) If you are the owner of Don Imel's original domestic structure that water right 84-10636 was developed in connection with, you have a couple of options:
 - a. File an application for transfer with IDWR to change the legal description of the POD and POU to accurately describe the original home that the water right is applicable to. The transfer filing fee is \$200. And application for transfer can be obtained at the IDWR website: www.idwr.idaho.gov
 - b. File a new application for permit to develop a new water right for your home(s) that accurately describe the place of use and point of diversion. A new application for permit will cost \$100.

I know this is a lot of information coming to you out of the blue. Please look over the information and then contact me with any questions and I will be more than happy to talk it through with you. I apologize for the confusion. This issue should have been discussed with you in 2007 when you originally submitted the change of ownership. Fortunately, you are in an area where you can still get a new permit to establish a new water right.

Respectfully submitted,



Craig L. Saxton
Water Rights Supervisor
craig.saxton@idwr.idaho.gov
(208) 287-4916