

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 51-07309

PRIORITY: May 02, 1988

Maximum Diversion Rate: 0.17 CFS
Maximum Diversion Volume: 34.8 AF

It is hereby certified that:

GREG OBENDORF 26496 DEB LN PARMA ID 83660

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 02, 1988, and has submitted Proof of Beneficial Use on April 20, 1994. An examination confirms water is diverted from:

SOURCE:
WASTE WATER

TRIBUTARY:
LITTLE JACKS CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION	03/01 to 11/15	0.17 CFS	34.8 AF

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 7, Twp 07S, Rge 05E, B.M. OWYHEE County
WASTE WATER L3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) Sec. 7, Twp 07S, Rge 05E, B.M. OWYHEE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	05E	7								5.4	3.3								8.7

Total Acres: 8.7

CONDITIONS OF APPROVAL

1. This water right specifically prohibits increasing groundwater diversions to increase the supply of wastewater.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
3. This right is for the use of trust water, and it is subject to review 20 years after its initial approval (April 17, 1992) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
4. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right.

SCANNED
APR 26 2018

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 51-07309

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 25th day of April, 2018.

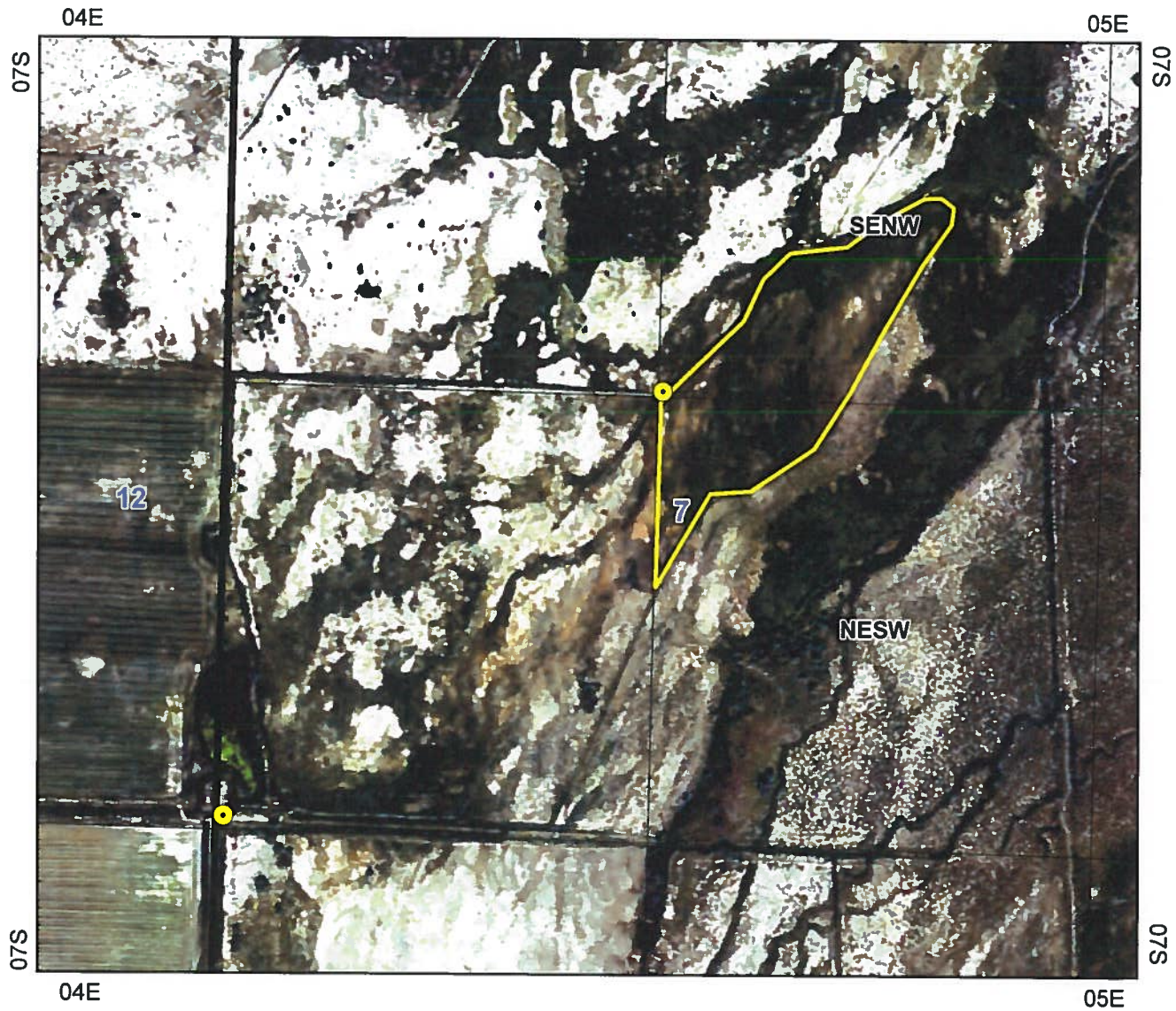


SHELLEY W. KEEN
Water Rights Section Manager



State of Idaho
Department of Water Resources
Attachment to Water Right License
51-7309

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.05 0.1 0.2 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

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

C.L. "Butch" Otter
Governor

Gary Spackman
Director

April 26, 2018

GREG OBENDORF
26496 DEB LN
PARMA ID 83660

RE: License No. 51-7309

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Also enclosed is a copy of the approved application for amendment.

The license is a PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,

A handwritten signature in blue ink that reads "Pamela S. Skaggs".

Pamela S. Skaggs
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2018, I served a true and correct copy of Water Right License No. 51-7309 by U.S. Mail, postage prepaid, to the following:

GREG OBENDORF (Current Owner)
26496 DEB LN
PARMA ID 83660

DANA L HOFSTETTER (Attorney)
HAWLEY TROXELL ENNIS & HAWLEY
877 MAIN ST STE 1000
PO BOX 1617
BOISE ID 83701-1617



Darla Block
Technical Records Specialist I

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 51-07309

RECEIVED

APR 23 2018

DEPARTMENT OF
WATER RESOURCES

PRIORITY: May 02, 1988

Maximum Diversion Rate: 0.17 CFS
Maximum Diversion Volume: 34.8 AF

Comes now

GREG OBENDORF 26496 DEB LN PARMA ID 83660

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 51-07309, and requests that the permit be changed as follows:

SOURCE:
WASTE WATER

TRIBUTARY:
LITTLE JACKS CREEK

BENEFICIAL USE
IRRIGATION

PERIOD OF USE
03/01 to 11/15

DIVERSION RATE
0.17 CFS

**ANNUAL
DIVERSION VOLUME**
34.8 AF

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER SE¼NW¼ Sec. 7, Twp 07S, Rge 05E, B.M. OWYHEE County

WASTE WATER L3 (NW¼SW¼) Sec. 7, Twp 07S, Rge 05E, B.M. OWYHEE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	05E	7								5.4	3.3								8.7

Total Acres: 8.7

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 17 day of April, 2018.

(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 51-07309

FOR DEPARTMENT USE ONLY

Preliminary check by TP Fee = 100.00 Receipted by TP # C105002 Date APR 23 2018

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 51-07309 with the following:

CONDITIONS OF APPROVAL

1. This water right specifically prohibits increasing groundwater diversions to increase the supply of wastewater.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
3. This right is for the use of trust water, and it is subject to review 20 years after its initial approval (April 17, 1992) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
4. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right.

This amendment is issued pursuant to the provisions of Section 42-211, Idaho Code.

Signed this 25th day of April, 2018.



SHELLEY W. KEEN
Water Rights Section Manager

Edl, Michele

From: Dana Hofstetter <DHofstetter@hawleytroxell.com>
Sent: Thursday, April 12, 2018 1:56 PM
To: Edl, Michele
Subject: RE: Permit 51-7309 (Obendorf) [IWOV-IMANAGE.FID796863]

Michele,

Thank you for the heads up on this – I'm glad you've been able to circle back – my recollection is that this matter was pretty close to conclusion. I look forward to completing this. I will be back in touch on this POD issue soon.

Thank you,
Dana

DANA L. HOFSTETTER
Of Counsel
direct 208.388.4867
fax 208.954.5943
email dhofstetter@hawleytroxell.com

HAWLEY TROXELL
Attorneys and Counselors



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From: Edl, Michele [mailto:Michele.Edl@idwr.idaho.gov]
Sent: Wednesday, April 11, 2018 3:22 PM
To: Dana Hofstetter
Subject: Permit 51-7309 (Obendorf)

Ms. Hofstetter,

Our last communication regarding Greg Obendorf's transfer proposal #78324 and overlapping permit 51-7309, was in February 2017. At that time, Mr. Obendorf expressed his continued interest in developing the wildlife habitat project proposed by Transfer 78324 and he did not want to relinquish the permit. We were discussing ways to resolve the overlap.

I still have these applications assigned to me. And I have recently been able to circle back around to them and to dedicate the necessary time for review. I have determined that Permit 51-7309 could be licensed, but first it will require an amendment to correctly locate one of the two points of diversion. The attached PDF is an early-bird copy of a letter and attachments that will be sent from this office tomorrow morning.

Regards
Michele Edl
208-287-4946

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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

April 11, 2018

GREG OBENDORF
26496 DEB LN
PARMA ID 83660

RE: Water Right Permit No. 51-07309

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit(s) referenced above prior to issuing water right license(s). By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit(s) have been developed differently than described on your permit(s). Changes that do not increase the authorized use of water under the permit(s) can be requested and approved in accordance with Section 42-211, Idaho Code. Before license(s) can be issued, your permit(s) must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit(s):

☒ **Point(s) of Diversion**

☐ **Place(s) of Use**

☐ **Other**

The enclosed Application for Amendment form(s) depicts the elements of the water right(s) as they will appear on the license(s) when issued. Please review the amendment form(s) carefully. If you concur with the information presented, please sign and return the form(s) with the \$100.00 filing fee within 14 days.

If you have any questions, please call me at (208) 287-4946.

Sincerely,

Michele D Edl
Water Resources Agent, Sr.

Enclosure(s): Application for Amendment
cc: Dana L Hofstetter

Edl, Michele

From: Dana Hofstetter <DHofstetter@hawleytroxell.com>
Sent: Wednesday, February 01, 2017 4:01 PM
To: Edl, Michele
Subject: RE: Permit 51-7309(Obendorf) [IWOV-DMSMSG1.FID796863]

Michele,

As a follow up to our meeting last week, have you been able to confirm whether 1.) amending Permit 51-7309 to have a place of use of 38.8 acres in the SENW and 39.7 acres in the NESW of Section 7, T7S, R5E; and 2.) amending Transfer Application 78324 and Applications for Permit Nos. 51-12999, 51-13000 and 51-13001 to cover wildlife for the remaining 1.2 acres in the SENW and 0.3 acres in the NESW of Section 7, T7S, R5E would be adequate to avoid overlap with Permit 51-7309 and allow processing of the Applications to continue?

Thank you,
Dana

From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Wednesday, January 25, 2017 9:10 AM
To: Dana Hofstetter
Subject: RE: Permit 51-7309(Obendorf) [IWOV-DMSMSG1.FID796863]

That would be great. I look forward to meeting you in person.

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Tuesday, January 24, 2017 4:51 PM
To: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Subject: RE: Permit 51-7309(Obendorf) [IWOV-DMSMSG1.FID796863]

Michele,

Would 1:30 pm on Thursday work for you?

Thank you,
Dana

From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Tuesday, January 24, 2017 3:55 PM
To: Dana Hofstetter
Subject: RE: Permit 51-7309(Obendorf) [IWOV-DMSMSG1.FID796863]

Dana,

Thank you for keeping me on track for Mr. Obendorf! I was going to contact you today about the next step.

I have been primarily focused on processing Water Supply Bank applications but I do appreciate a break from them once in a while. The Obendorf transfer and permit would be a welcome break.

Tomorrow, I am scheduled to attend meetings most of the day. But I have no hard commitments either Thursday or Friday so either day would be good. Let me know an approximate block of time and I'll book a room for us.

Sincerely,
Michele

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Tuesday, January 24, 2017 3:34 PM
To: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Subject: RE: Permit 51-7309(Obendorf) [IWOV-DMSMSG1.FID796863]

Michele,

Would you have time this week for me to come in and revise the POU for Transfer Application 78324 to remove any overlap in the SENW and NESW of Section 7, T7S, R5E, the POU for Permit 51-7309, as described in my e-mail below?

Thank you,
Dana

DANA L. HOFSTETTER
Of Counsel
direct 208.388.4867
fax 208.954.5943
www.HawleyTroxell.com
HAWLEY TROXELL
Attorneys and Counselors

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From: Dana Hofstetter
Sent: Friday, January 06, 2017 6:11 PM
To: 'Edl, Michele'
Subject: RE: Permit 51-7309(Obendorf) [IWOV-DMSMSG1.FID796863]

Michele,

Mr. Obendorf would like to proceed to licensing on Permit 51-7309 and also continue to pursue the wildlife applications. Would it help simplify and expedite matters if he were to amend Transfer Application 78324 to avoid any overlap in the SENW and NESW of Section 7, T7S, R5E, the POU for Permit 51-7309?

Thank you,
Dana

From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Thursday, January 05, 2017 1:37 PM
To: Dana Hofstetter
Subject: RE: Permit 51-7309(Obendorf)

Ms. Hofstetter,
My calendar has prompted me to contact you and/or Mr. Shaw for a status update on the Obendorf transfer and permit. Do you have any news?

Michele Edl

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Friday, November 18, 2016 6:22 PM
To: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Subject: RE: Permit 51-7309(Obendorf) [IWOV-DMSMSG1.FID796863]

Ms. Edl,

I am working with ERO Resources on this issue and also the shape file. I wanted you to know we haven't forgotten your requests. We hope to get back with you shortly after Thanksgiving. Please let me know if you need the information sooner.

Thank you and Happy Thanksgiving,
Dana

DANA L. HOFSTETTER
Of Counsel
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HAWLEY TROXELL
Attorneys and Counselors

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From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Thursday, November 03, 2016 6:46 PM
To: Dana Hofstetter
Subject: Permit 51-7309(Obendorf)

Dana Hofstetter,
I've been allocated some time to work on issues associated with Mr. Obendorf's Application for Transfer #78324 (formerly numbered 73952). But I've come across a snag and I want you and your client to be made aware of it.

I have found that there is an active permit which appears to overlap approximately half of the POU proposed by Transfer 78324. That permit is Permit 51-7309 and it authorized 80 acres of irrigation use from wastewater. The Proof of Beneficial Use statement was received in 1994 and I have some notes and photos from an August 1998 field visit. The notes also indicate that the field work was incomplete; that another field visit was intended. I believe that previous efforts to complete the licensing process for Permit 51-7309 may also have been hung up by Trust Water Rights issues and concerns. IDWR now has some guidance in place which assists us with processing water uses in the Trust Water Rights Area.

Unless your client is willing to relinquish Permit 51-7309, I will need to move forward with licensing it before I can complete the processing of Transfer 78324. And because of the overlapping POUs, it's likely that if it's licensed, water right 51-7309 will need to be acted on by a transfer of its own. It will need to be changed from irrigation use to the wildlife and storage uses proposed by Transfer 78324.

Understanding the notes and images sufficiently well to draft a beneficial use field report for the use developed under 51-7309 has proven to be challenging and has delayed further work on the Transfer 78324.

For example: a portion of the wastewater proposed for reuse was to be the discharge from fish propagation ponds. I have not been able to determine if fish propagation activities continued after the right was decreed, so a portion of the irrigation water use may have been instead a first use of the low temperature geothermal water rather than a reuse of wastewater.

Permit 51-7309 may no longer have the value that it once had. I have assumed (maybe incorrectly) that your client would like to have a license issued for 51-7309 as soon as possible. But I would welcome direction from your client either way. At your next opportunity, would you please confirm your client's continued interest in Permit 51-7309? Thank you.

Sincerely
Michele Edl
287-4946