

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 67-8014

PRIORITY: September 05, 2002

Maximum Diversion Rate: 2.26 CFS
Maximum Diversion Volume: 1,035.5 AF

It is hereby certified that:

ROYCE A SCHWENKFELDER 3315 SCHWENKFELDER RD CAMBRIDGE ID 83610 Or

JOHN R SCHWENKFELDER 5500 W OLD SCHOOL LN MERIDIAN ID 83642

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 04, 1998, and has submitted Proof of Beneficial Use on September 05, 2002. An examination confirms water is diverted from:

SOURCE: GROUND WATER

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	03/15 to 10/31	2.26 CFS	1,035.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW¼NW¼ Sec. 14, Twp 14N, Rge 02W, B.M. WASHINGTON County

GROUND WATER NW¼NW¼ Sec. 14, Twp 14N, Rge 02W, B.M. WASHINGTON 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	
14N	02W	11									12.0		27.0	38.0			23.0		100.0
14N	02W	14		21.0	21.0		40.0	21.0	36.0	32.0	18.0					40.0	11.0		240.0

Total Acres: 340

CONDITIONS OF APPROVAL

1. Rights 67-7561 and 67-8014 when combined shall not exceed a total diversion rate of 2.26 cfs, a total annual maximum diversion volume of 1035.5 af at the field headgate, and the irrigation of 409 acres.
2. Rights 67-7489, 67-7561, 67-8014, 67-8036 and 67-14784 when combined shall not exceed a total irrigation of 467 acres.
3. 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 lands above.
4. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 67-8014

5. If the surface water right(s) appurtenant to the place of use for this right is unavailable for any reason other than drought or curtailment by priority (for example abandoned, forfeited, sold, transferred, leased, used on another place of use, or disallowed by court decree), the right holder shall not divert ground water for irrigation purposes on the land with appurtenant surface water rights without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
6. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
7. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
8. The following rights are diverted through point(s) of diversion described above: 67-7561 and 67-8014.

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 11th day of August, 2016.

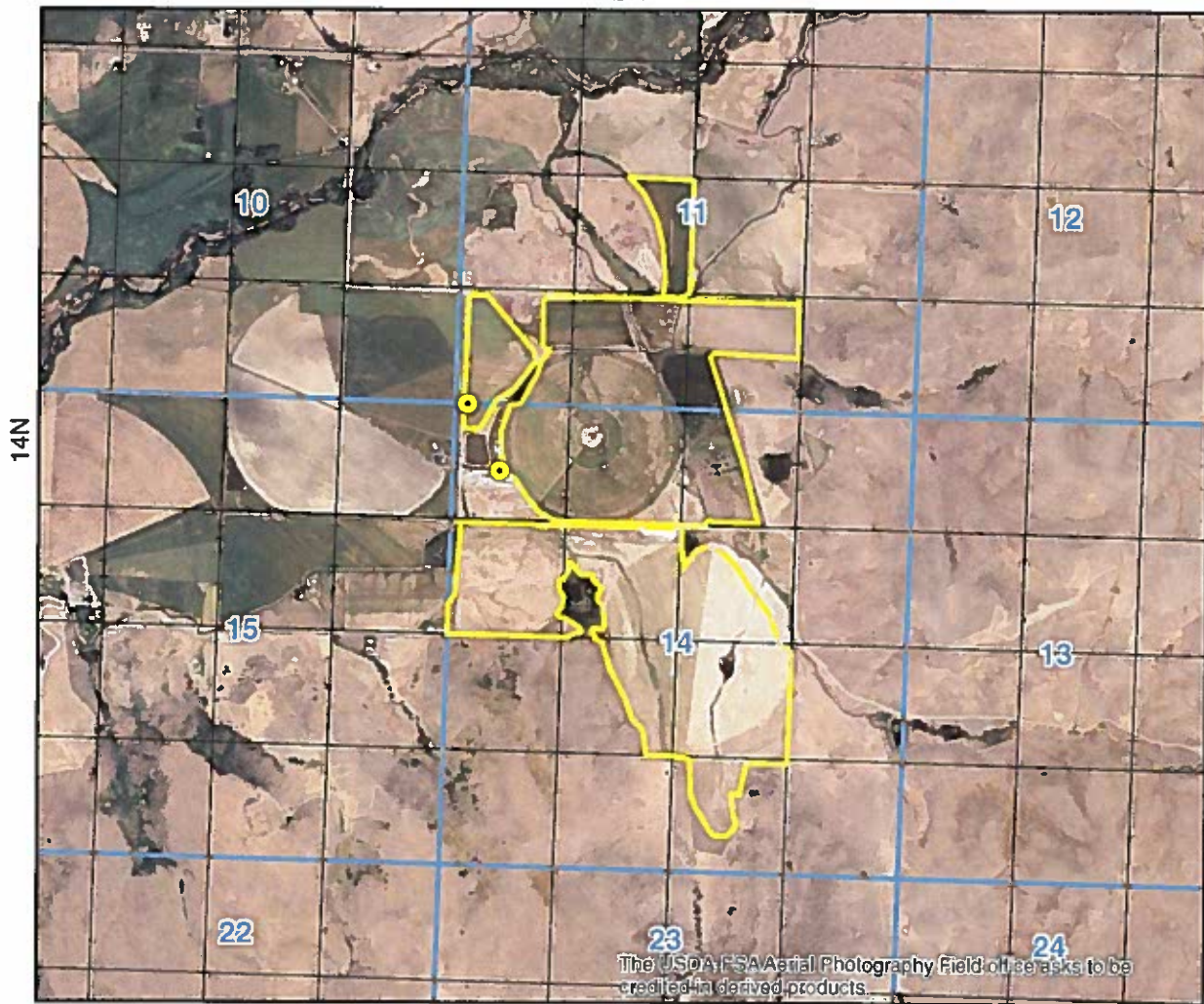


Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources
Attachment to Water Right License
67-8014

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.

02W



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

0 0.25 0.5 1 Miles



State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 67-08014

RECEIVED
MAY 24 2016
WATER RESOURCES
WESTERN REGION

PRIORITY: September 05, 2002

Maximum Diversion Rate: 2.26 CFS
Maximum Diversion Volume: 1,035.5 AF

Comes now

ROYCE A SCHWENKFELDER 3315 SCHWENKFELDER RD CAMBRIDGE ID 83610 Or

JOHN R SCHWENKFELDER 5500 W OLD SCHOOL LN MERIDIAN ID 83642

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. 67-08014, and requests that the permit be changed as follows:

SOURCE: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION	03/15 to 10/31	2.26 CFS	1,035.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW¼NW¼ Sec. 14, Twp 14N, Rge 02W, B.M. WASHINGTON County

GROUND WATER NW¼NW¼ Sec. 14, Twp 14N, Rge 02W, B.M. WASHINGTON 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	
14N	02W	11									12.0		27.0	38.0			23.0		100.0
14N	02W	14		21.0	21.0		40.0	21.0	36.0	32.0	18.0					40.0	11.0		240.0

Total Acres: 340

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 24 day of MAY, 2016.



(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 67-08014

FOR DEPARTMENT USE ONLY

Preliminary check by PK Fee = \$100⁰⁰ Received by CJ # W04424 Date 5/24/16

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 67-08014 with the following:

CONDITIONS OF APPROVAL

1. 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 lands above.
2. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.
3. Rights 67-7561 and 67-8014 when combined shall not exceed a total diversion rate of 2.26 cfs, a total annual maximum diversion volume of 1035.5 af at the field headgate, and the irrigation of 409 acres.
4. Rights 67-7489, 67-7561, 67-8014, 67-8036 and 67-14784 when combined shall not exceed a total irrigation of 467 acres.
5. If the surface water right(s) appurtenant to the place of use for this right is unavailable for any reason other than drought or curtailment by priority (for example abandoned, forfeited, sold, transferred, leased, used on another place of use, or disallowed by court decree), the right holder shall not divert ground water for irrigation purposes on the land with appurtenant surface water rights without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
6. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
7. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
8. The following rights are diverted through point(s) of diversion described above: 67-7561 and 67-8014.

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

Signed this 11th day of August, 2016.



Nick Miller
Manger, IDWR Western Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 11, 2016

ROYCE A SCHWENKFELDER
3315 SCHWENKFELDER RD
CAMBRIDGE ID 83610

JOHN R SCHWENKFELDER
5500 W OLD SCHOOL LN
MERIDIAN ID 83642

RE: License No. 67-8014

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources 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 the conditions of approval and remarks listed on your license.

The license 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

 Rachel Neely for:

Nick Miller
Western Regional Manager
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

67-8014

**JOHN R SCHWENKFELDER
5500 W OLD SCHOOL LN
MERIDIAN ID 83642**

**ROYCE A SCHWENKFELDER
3315 SCHWENKFELDER RD
CAMBRIDGE ID 83610**



**Rachel Neely
Administrative Assistant**

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

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 10, 2016

JOHN SCHWENKFELDER
5500 W OLD SCHOOL LN
MERIDIAN ID 83642

COPY

RE: Irrigation Storage Use.

Dear Gentlemen,

On May 14, 2013, Rick Collingwood of IDWR Western Region conducted a field exam for water right permit 67-8014. I have been assigned to complete the licensing process in an effort to issue you a water right in accordance with the beneficial use developed under the permit. In Mr. Collingwood's notes, a map of potentially illegally diverted water for storage purposes was discovered on your property. Review of water right files finds only 67-8036 authorizes a total storage of 60 af described by the attached report.

For your convenience, I have included Mr. Collingwood's map and attached an Application for Permit form to assist you with the water right application. IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please complete the forms and return them to my office with the appropriate attachments and fees in a timely manner.

You may contact me at 208-334-2190 with any questions you might have. Thank you for your attention to these matters.

Respectfully,

Patrick Kelly
Water Resource Agent, Sr.

Enclosure(s): Application for Permit form
map of property



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

May 10, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

COPY

JOHN R SCHWENKFELDER
5500 W OLD SCHOOL LN
MERIDIAN ID 83642

RE: Water Right Permit No. 67-08014

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

 X 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 208-334-2190.

Sincerely,

Patrick Kelly
Water Resource Agent, Sr.

Enclosure(s): Application for Amendment



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

May 10, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

ROYCE A SCHWENKFELDER
3315 SCHWENKFELDER RD
CAMBRIDGE ID 83610

COPY

RE: Water Right Permit No. 67-08014

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

 X 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 208-334-2190.

Sincerely,

Patrick Kelly
Water Resource Agent, Sr.

Enclosure(s): Application for Amendment

MEMORANDUM

TO: Water Right File – 67-8014
FROM: Patrick Kelly – Water Resource Agent
DATE: October 26, 2015
SUBJECT: Field exam review

The field exam for permit 67-8014 was completed by Rick Collingwood of IDWR on 5/14/2013. I was given the file to review and complete the licensing process. The following are my findings and recommendations:

The field exam found an irrigation system with two wells. Exam recommendations and comments on the Beneficial Use Field Exam Checklist indicated a licensing amendment would be required to add a POD. The permit describes one legal description in the Points of Diversion, but identifies two diversions in the conditions of approval. An amendment is not required to add a POD.

The POU shape created by Rick on 12/8/2014 is shown in his field exam report. I redrew irrigated land using 1998-2004 imagery. This serves as the best tool to measure beneficial use during the beneficial use period since proof of beneficial use was submitted in 2002. Changes to the irrigation system seem to have changed in some areas since that time.

ArcMap tools reflect an area of 340 acres was developed. This is larger than the 272 acres suggested in the field exam, however still within the limits of the 452 acre permit. The POU contains irrigated land within legal descriptions not included in the permit. An amendment will be required to correct this on the license.

A flow measurement of 1.26 cfs was recorded from well D0019234. A 0.72 cfs theoretical flow rate was calculated for the second well using pump hp and estimated pressure and lift. However, this theoretical was done for the same diversion under water right 67-7561. A field exam report was conducted a measurement of 1.00 cfs from the well using a velocity probe in 1988. The two rates would then combine for a total diversion rate of 2.26 cfs.

Rick made a licensing recommendation of 840.4 af volume using a 1.98 cfs diversion rate with a 214 day season (4/1 – 10/31). Current season of use dates are 3/15 – 10/31 totaling 231 days. Using the diversion rate of 2.26 cfs, a volume of 1,035.5 af is being recommended based on the information calculated below:

$$\begin{aligned} V_{I.R.} &= (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 340 \times 4.0 = 1360 \\ V_{D.R.} &= [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = 2.26 \times 231 \times 1.9835 = 1035.5 \text{ af} \\ V &= \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 1035.5 \text{ af} \end{aligned}$$

Rick's field report suggested no POD overlap, but 67-7561 exists for the second well not measured during his field exam. Conditions will be placed on the license to recognize the overlap.

Overlap review was completed analyzing the maximum number of acres authorized by water rights within each quarter-quarter. See attached. Combined use limits of the ground water system with 67-7561 will reflect their maximum diversion: 2.26 cfs, 1,035.5 af and 409 acres. An acre limit of 467 acres will be added for all overlapping surface and ground water rights.

I recommend a license be drafted and issued for 2.26 cfs, 1,035.5 af and 340 acres.

14N02W11

Basin	Seq	Owner	Source
67-14784	J R S RANCHES LLC	LITTLE WEISER RIVER	
67-4311	COPHER, CYNTHIA A	LITTLE WEISER RIVER	
67-4316	THOMASON, JOSEPHINE	LITTLE WEISER RIVER	
67-472	WARD, ILENE J; WARD, ISAAC M	LITTLE WEISER RIVER	
67-473	COPHER, CYNTHIA A	LITTLE WEISER RIVER	
67-476B	THOMASON, JACK D; THOMASON, NELLIE	LITTLE WEISER RIVER	
67-481	WARD, ILENE J; WARD, ISAAC M	LITTLE WEISER RIVER	
67-485A	THOMASON, JOSEPHINE W	LITTLE WEISER RIVER	
67-7489	J R S RANCHES LLC	LITTLE WEISER RIVER	
67-7561	J R S RANCHES LLC	GROUND WATER	
67-8014	SCHWENKFELDER, JOHN R; SCHWENKFELDER, RO	GROUND WATER	
67-8036	SCHWENKFELDER, JOHN R	UNNAMED STREAM	

14N 02 W Sec 11 OVERLAP

14N 02 W Sec 11 OVERLAP

NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	TotalAcres
								30		10	30	40		40		150
0.2																0.2
						25.6	22.7		36.9							85.2
3	4	3											3			13
0.2																0.2
				25	5											30
5	15	10											5			35
						25.6	22.7		36.9							85.2
								10		30					10	50
								12		30	40			40		122
								12		27	38			23		100
										4	10			16		30
								30		30	40	40		40		180
								12		30	40			40		122

14N02W14

67-14784	J R S RANCHES LLC	LITTLE WEISER RIVER
67-7489	J R S RANCHES LLC	LITTLE WEISER RIVER
67-7561	J R S RANCHES LLC	GROUND WATER
67-8014	SCHWENKFELDER, JOHN R; SCHWENKFELDER, RO	GROUND WATER

14N 02W Sec 14 OVERLAP

	40	40		40	30											150
10																10
	40	40		40	30											150
	21	21		40	21	36	32	18					40	11		240
	40	40		40	30	36	32	18					40	11		287
Total Overlap																467

67-8014		67-8014	
67-7561		67-7561	409 acres
67-14784	467 acres		
67-7489			
67-8036			

