

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 74-07243

PRIORITY: November 27, 1985

Maximum Diversion Rate: 0.05 CFS

Maximum Diversion Volume: 19.7 AF

It is hereby certified that:

JOSEPH L TONSMEIRE PO BOX 871 SALMON ID 83467

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 27, 1985, and has submitted Proof of Beneficial Use on May 08, 1990. An examination confirms water is diverted from:

SOURCE:
DRY GULCH CREEK

TRIBUTARY:
HAYDEN 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>
STOCKWATER	01/01 to 12/31	0.05 CFS	2.7 AF
STOCKWATER FROM STORAGE	01/01 to 12/31		2.7 AF
RECREATION STORAGE	01/01 to 12/31		17.0 AF
STOCKWATER STORAGE	01/01 to 12/31		19.7 AF

LOCATION OF POINT(S) OF DIVERSION:

DRY GULCH CREEK NW¼NW¼ Sec. 13, Twp 17N, Rge 23E, B.M. LEMHI County

PLACE OF USE: RECREATION STORAGE, STOCKWATER FROM STORAGE and STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	23E	13						X											

PLACE OF USE: STOCKWATER STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	23E	13						X											

CONDITIONS OF APPROVAL

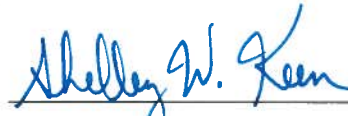
1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74.
2. The issuance of this right does not grant any right-of-way or easement across the land of another.
3. Right 74-7243 authorizes the storage of an annual total of 8.0 acre-feet to be used for the initial filling or carryover storage of the pond and 2.7 acre-feet for stockwater storage; 9.0 acre-feet for the replacement of losses due to seepage and evaporation, for a total annual storage volume of 19.7 acre-feet.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 74-07243

4. When notified by the Department, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

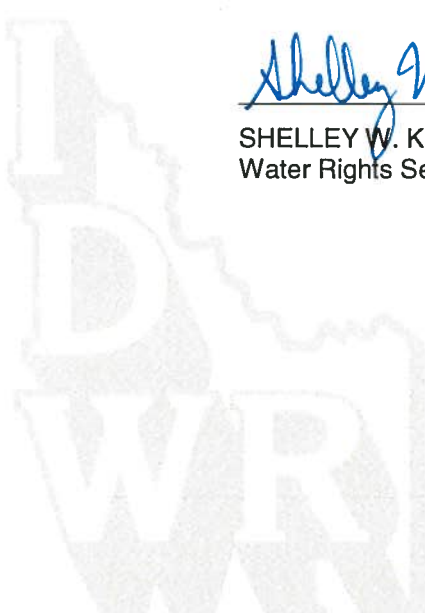
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 2nd day of August, 2016.



A handwritten signature in blue ink, reading "Shelley W. Keen", is written over a horizontal line.

SHELLEY W. KEEN
Water Rights Section Manager



State of Idaho
Department of Water Resources
Water Right License
74-7243

This map depicts the RECREATION, STOCKWATER, STOCKWATER FROM STORAGE, RECREATION STORAGE, and STOCKWATER STORAGE place of use boundary for this water right amendment and is attached to the document solely for illustrative purposes.

23E

17N



-  Point of Diversion
-  Place Of Use Boundary



0 250 500 Feet



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

August 4, 2016

JOSEPH L TONSMEIRE
PO BOX 871
SALMON ID 83467

RE: License No. 74-7243

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. Also enclosed is a copy of the approved application for amendment.

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 208-287-4951.

Sincerely,

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

c: TONSMEIRE REVOCABLE TRUST
WATER DISTRICT #74

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 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. 37-8182

**JOSEPH L TONSMEIRE
PO BOX 871
SALMON ID 83467**

**TONSMEIRE REVOCABLE TRUST
PO BOX 72
LEMHI ID 83465**

**WATER DISTRICT #74
RICK SAGER
985 HWY 28
SALMON ID 83467**



**Darla Block
Technical Records Specialist**

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. 74-07243

RECEIVED

JUL 18 2016

DEPARTMENT OF
WATER RESOURCES

PRIORITY: November 27, 1985

Maximum Diversion Rate: 0.05 CFS

Maximum Diversion Volume: 19.7 AF

Comes now

JOSEPH L TONSMEIRE PO BOX 871 SALMON ID 83467

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. 74-07243, and requests that the permit be changed as follows:

SOURCE: DRY GULCH CREEK

TRIBUTARY: HAYDEN CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	23E	13						X											

PLACE OF USE: STOCKWATER FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	23E	12											X						
17N	23E	13						X											

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 15th day of July, 2016.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 74-07243

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$ 100 Received by SR # C102285 Date 7/18/2016

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 74-07243 with the following:

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74.
2. The issuance of this right does not grant any right-of-way or easement across the land of another.
3. Right 74-7243 authorizes the storage of an annual total of 8.0 acre-feet to be used for the initial filling or carryover storage of the pond and 2.7 acre-feet for stockwater storage; 9.0 acre-feet for the replacement of losses due to seepage and evaporation, for a total annual storage volume of 19.7 acre-feet.
4. When notified by the Department, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

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

Signed this 2nd day of August, 2016.



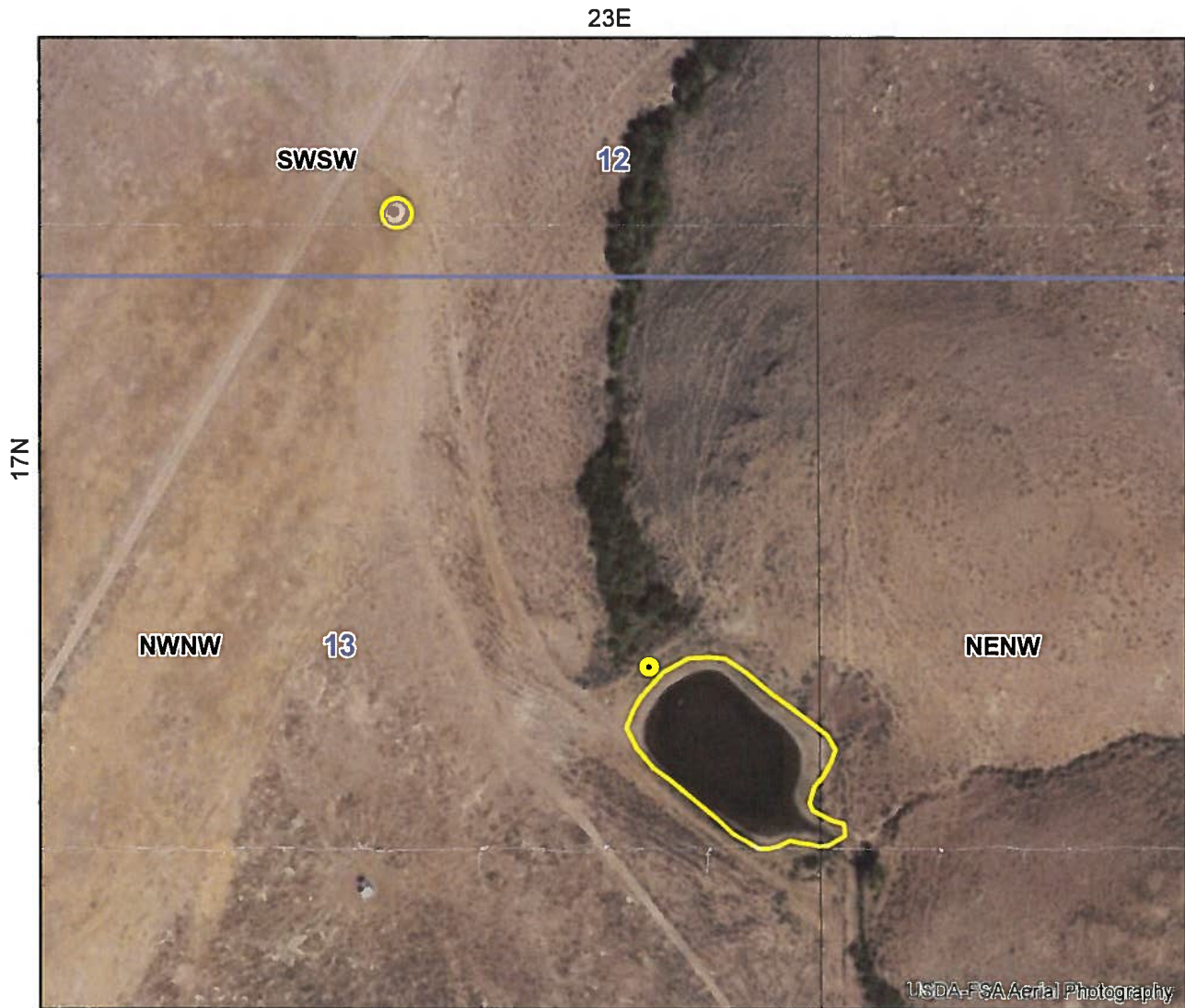
SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources

Water Right License Amendment

74-7243

This map depicts the RECREATION, STOCKWATER, STOCKWATER FROM STORAGE, RECREATION STORAGE, and STOCKWATER STORAGE place of use boundary for this water right amendment and is attached to the document solely for illustrative purposes.



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



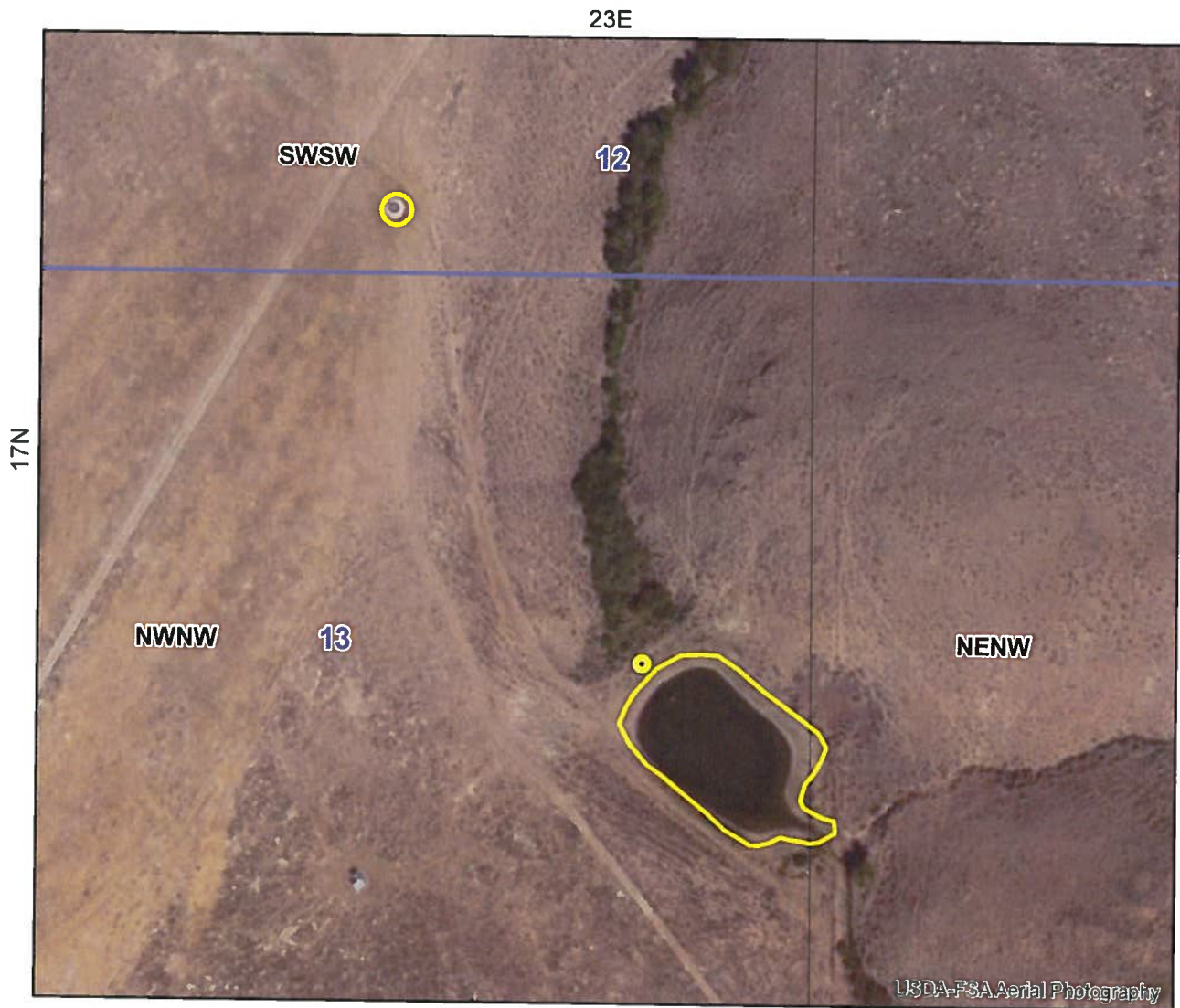
0 250 500 Feet

State of Idaho
Department of Water Resources

Water Right License Amendment

74-7243

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-  Point of Diversion
-  Place Of Use Boundary
-  Townships
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0 250 500 Feet



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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

June 17, 2016

TONSMEIRE REVOCABLE TRUST
PO BOX 72
LEMHI, ID 83465

RE: Permit No. 74-7243

Dear Property Owner:

I am writing to you about Water Right Permit 74-7243. The permit is being reviewed for licensing, which is the final confirmation that a water right has been established. Before a water right license can be issued, however, the permit must be amended to depict the water right as it was actually developed. County records indicate that you may now own the property on which the water development occurred. I am writing to give you the opportunity to complete the water right licensing process.

The enclosed Application for Amendment contains information that will be included on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, sign the form and return it with the \$100.00 filing fee as soon as possible.

Water right permits are considered personal property. The license will be issued in the name of Joseph Tonsmeire. However, once the license is issued, the water right becomes appurtenant to the land, regardless of the name listed on the document, and you can submit an ownership change notice at that time. There is a \$25.00 fee to change the ownership of a water right.

If you have any questions about this information, please contact me at (208)287-4881 or sandra.thiel@idwr.idaho.gov. Please send the amendment and fees to the address above by July 17th.

Sincerely,

A handwritten signature in black ink that reads "Sandra Thiel".

Sandra Thiel
Sr. Water Right Agent

Enclosures

Thiel, Sandra

From: Keen, Shelley
Sent: Thursday, June 16, 2016 2:41 PM
To: Thiel, Sandra
Subject: RE: permit 74-7243

Sandy,

I think Rick's recent email is a much more definitive statement than the first one. I'm convinced by his assertion that water could not be delivered to a senior water user because it would never reach Hayden Creek. Let's change the measuring device requirement to a standard beginning with, "When notified by the Department" We can do that in the license without issuing a separate order.

Thanks.

Shelley

From: Thiel, Sandra
Sent: Thursday, June 16, 2016 2:09 PM
To: Keen, Shelley
Subject: FW: permit 74-7243

Hello, I received the message below from Rick Sager concerning permit 74-7243.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

From: Rick Sager [<mailto:rick375@centurytel.net>]
Sent: Wednesday, June 15, 2016 3:28 PM
To: Thiel, Sandra
Subject: Re: permit 74-7243

Hi Sandra

Yes it would be a futile call. With the flow it runs historical there would not be enough to irrigate with or move it to a senior user. It would never reach Hayden Creek.

I still stand that in my position that a head gate or measuring device would not be required.

Rick Sager

From: [Thiel, Sandra](#)
Sent: Wednesday, June 15, 2016 1:08 PM
To: [Rick Sager](#)
Subject: RE: permit 74-7243

Hello Rick, This has been a while back and I'm sorry it has taken so long to move forward. I sent you an email about a pond on Dry Gulch Creek, tributary to Hayden Creek. The permit required a measuring device, as do our rules for on-stream storage. A downstream water right holder protested the application and I believe the measuring device was a

compromise. I understand the Tonsmeirs are not irrigating from the pond and it appears that the only use is Stockwater. So I have a couple of questions. If water was allowed to flow through and not be impounded, would that water make it down to the ditch, or to Hayden Creek? If there was a call from a downstream senior water right holder would there be water to fill the call or would it be futile?

Sandra Beer Thiel

Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

From: Rick Sager [<mailto:rick375@centurytel.net>]

Sent: Friday, November 01, 2013 1:47 PM

To: Thiel, Sandra

Subject: Re: permit 74-7243

Sandra

Sorry it took so long to get back to you concerning water right 74-7243.

I met with Fran Tonsmieres forman to go over the use of Dry Gulch. After discussing the issues with him and yourself I see no need for a measuring device or a headgate for water right 74-7243. As per normal year there is not enough water in Dry Gulch to warrant it. As watermaster of Water District 74 it would be my recommendation not to require these, as the water is used for storage for stockwater.

I hope this helps if I can do anything else please call me.

Rick Sager