



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 12, 2016

ERO RESOURCES CORP
ATTN DAVE SHAW
4001 EAST MAIN ST
EMMETT ID 83617

RE: Certified Field Exam for Permit 63-33721

Dear Mr. Shaw:

I reviewed the certified field exam report you resubmitted on December 22, 2015 for Hoot Nanney Farms, Inc. for permit 63-33721. This permit was approved on May 29, 2014 with 3 points of diversion or wells, one point of injection, and one point of redirection in Government Lot 4 (NWNW) of Section 3, Township 4 North, Range 1 West, B.M. to supply up to 2.40 cfs for the irrigation of up to 240 acres. These are the same 3 points of diversion and place of use described in water rights 63-2958 and 63-31988.

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02 guide the Idaho Department of Water Resources (Department) staff how to determine if a certified field exam report provides adequate information to proceed with the licensing process. If the information supplied in the certified field exam report is not complete, Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.02.b provides the following direction:

b. Field reports not completed as required by these rules will be returned to the certified water right examiner for completion. If the date for submitting proof of beneficial use has passed, the penalty provisions of Rule 055 shall apply. (7-1-93)

My review of the certified field report you resubmitted for permit 63-33721 found that the certified field report did not provide the needed information required to proceed with the licensing process. Therefore, I have returned the certified field report and proof of beneficial use statement with this letter. The proof of beneficial use statement is not due until June 1, 2016, so there should be ample time to acquire the information needed and re-submit the field report before June 1, 2016.

The remainder of this letter will provide a detailed accounting of the areas where the certified field exam report was deficient.

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.01.c states the following:

c. A concise description of the diversion works and a general description of the distribution works shall be given. This description must trace the water from the point of diversion to and including the place of use and the return to a public water source, if any. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structure shall be included. If water is stored, the timing and method of storage, release, redistribution and conveyance to the place of use shall be described. The make, capacity, serial number and model number of all pumps, boosters or measuring devices associated with the point of diversion at the source of the water supply shall be described on the field examination report. Schematic diagrams, photographs, and maps sufficient to locate and describe the diversion, conveyance and usage systems shall also be provided in the examination report. (3-29-12)

The field report you resubmitted still only had measurements and photos of the new well. The field report did not supply any **measurements, pump descriptions, or photos** for the two existing wells or the redistribution pumps. For a field report to be acceptable, the three well pumps and the redistribution pump information must be included in section C 4 of the field exam report form, and photos of all 4 pumps and the measurement device(s) for the other two well diversions should be included with the certified field report.

You stated in your reply that “(t)here is no prohibition from a permit holder submitting proof on fewer than all the approved points of diversion.” This is a correct statement, but as stated above, “(a) concise description of the diversion works and general description of the distribution works shall be given.” All three wells are included on the existing water rights, so we need this information to determine if the development of this permit has increased the amount of beneficial use. If the system cannot produce more than the existing water rights, then there is no increase in the beneficial use since all three wells are already on the existing water rights.

Furthermore, the total flow from all three wells will need to be measured by a means that can be verified by Department staff. This can be done by reading the installed meter and taking a photo to verify the meter reading. Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.040.03 and .04 provides guidance for an acceptable measurement. The rule states the following:

03. Measurements. Water measurements may be made by vessel, weir, meter, rated flume, reservoir capacity table or other standard method of measurement acceptable to the Director. The field report shall describe the method used in making the measurement, the date when made, the name of the person making the measurement, the legal description of the location where the measurement was taken and shall include sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case. (3-29-12)

04. Unacceptable Measurements. Theoretical diversion rates or theoretical carrying capacities are not acceptable as a measure of the rate of diversion except as indicated in these rules and for some diversion systems where the flow rate cannot be measured accurately due to the physical characteristics of the diversion and distribution system. (3-29-12)

Permit 63-33721 and existing water rights 63-2958 and 63-31003 have the following conditions:

Prior to the diversion and use of water under this right, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), to measure the diversion of ground water in accordance with Department specifications.

The right holder shall record the quantity of ground water diverted and annually report the totals, in accordance with Department instructions.

Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.02.d states the following:

d. Field reports which indicate that a measuring device or lockable controlling works, required as a condition of approval of the permit, has not been installed, are not acceptable and will be returned to the examiner unless the measuring device requirement or lockable controlling works requirement has been formally waived or modified by the Director. (3-29-12)

The certified field exam report did show and describe a flow meter on the new well, but there was no description of the data logger on the well. The information you submitted on the measurement device on the new well has the capability to easily install a data logger on the system.

You submitted several emails questioning the need for data loggers on the wells. The permit currently has a data logger requirement, which we cannot remove without a formal request to waive the data logger requirement. We have determined that if we receive a formal request to waive the data logger requirement, that we would seriously consider waiving the data logger requirement until such time that we determine that it would be necessary to require closer monitoring of the system. Your request for a waiver would need to include confirmation that all three wells are being measured with a flow meter that has a non-resettable totalizer, and a commitment from your client to **read, record, and maintain** the totalizer readings on a regular basis. The waiver should also include the frequency that the readings will be taken. We will not waive the requirement for a measurement device on the three wells or monitoring of the devices installed.

The certified field exam report is being returned to you for the above reasons. Proof of beneficial use is not due until June 1, 2016, so there should be adequate time to supply the information needed by the date proof of beneficial use is due. If you have any questions, please don't hesitate to contact me.

Respectfully,



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Idaho Department of Water Resources
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