

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-31664

AMENDED

AMENDED

Priority: April 22, 2003

Maximum Diversion Rate: 0.40 CFS
Maximum Diversion Volume: 23.4 AF

It is hereby certified that MANN FARMS
31801 MANN LN
PARMA ID 83660 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated July 28, 2006; and has submitted Proof of
Beneficial Use on August 01, 2013. An examination confirms water was 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>
STOCKWATER	01/01 to 12/31	0.40 CFS	23.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SW1/4NE1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County
GROUND WATER	SW1/4NE1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County
GROUND WATER	SW1/4NE1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County
GROUND WATER	SE1/4NW1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County
GROUND WATER	NE1/4SW1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County
GROUND WATER	NW1/4SE1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County
GROUND WATER	NW1/4SE1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County
GROUND WATER	NW1/4SE1/4	Sec. 25,	Twp 06N,	Rge 06W, B.M.	CANYON County

PLACE OF USE: STOCKWATER

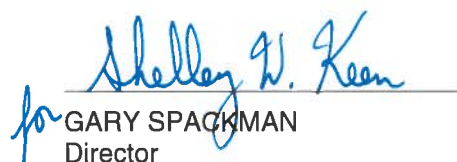
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	06W	25			X	X				X	X	X		X	X	X	X		

CONDITIONS OF APPROVAL

1. 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.
2. Rights 63-21364, 63-31292, 63-31293, 63-31294, 63-31295, 63-31298, and 63-31664 when combined shall not exceed a total diversion rate of 1.24 cfs.
3. The right to irrigate 9 acres under water right 63-2587B has been abandoned to mitigate for consumptive losses under this right.

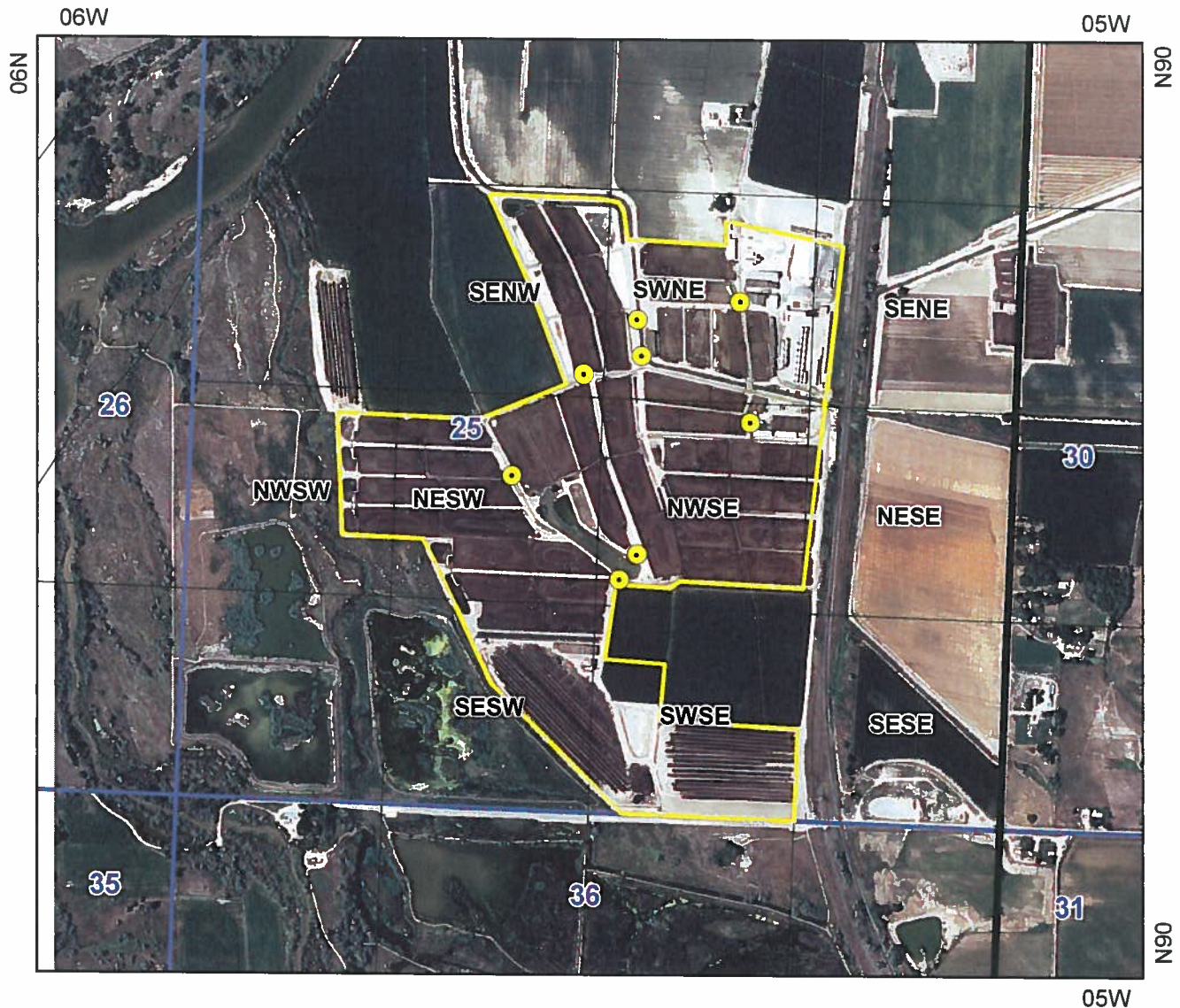
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 21st day of May, 2015.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
63-31664

This map depicts the STOCKWATER 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
- Quarter Quarters

0 0.125 0.25 0.5 Miles





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

May 26, 2015

MANN FARMS
31801 MANN LN
PARMA ID 83660

RE: License No. 63-31664

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Amended Water Right License in response to your petition for reconsideration. This license confirms that a water right has been established in accordance with your permit. This license supersedes the license document issued May 13, 2015. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The Amended License is a PRELIMINARY ORDER issued by the Department pursuant to Rule 760 of the Department's Rules of Procedure (IDAPA 37.01.01). 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)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2015, I mailed a true and correct copy, postage prepaid, of the foregoing AMENDED PRELIMINARY ORDER (Approved Amended License) to the person(s) listed below:

RE: WATER RIGHT NO.

63-31664

**MANN FARMS
31801 MANN LN
PARMA ID 83660**

**SPF WATER ENGINEERING LLC
C/O TERRY SCANLAN
300 E MALLARD DR STE 350
BOISE ID 83706**



**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.

MEMORANDUM

TO: Water Right File 63-31664

FROM: Daniel Nelson – Staff Hydrologist

DATE: May 19, 2015

SUBJECT: Mitigation Review of Water Right 63-31664

On May 18, 2015, Mann Farms' consultant Scott King of SPF Engineering called and raised a question concerning the lack of a condition for the mitigation of water right 63-31664. Mr. King was concerned that not having the condition could raise issues on future mitigation. The condition was not included, because the Snake River Basin Adjudication (SRBA) decrees did not remove the acres prior to the water rights being decreed. This memo and the attached chart show the timeline of how the water rights used for mitigation developed and how they were decreed.

On April 10, 1939, water right 63-2587 was licensed for 3.50 cfs to irrigate 157 acres.

On April 10, 1939, water right 63-2586 was licensed for 2.50 cfs to irrigate 82 acres.

On February 13, 1990, a SRBA claim was filed on water right 63-2587 for 3.14 cfs to irrigate 157 acres.

On February 13, 1990, a SRBA claim was filed on water right 63-2586 for 1.64 cfs to irrigated 82 acres.

On March 1, 1990, SRBA claims 63-2587 and 63-2586 were combined and then re-split due to ownership into 63-2587A for 3.06 cfs to irrigate 153 acres and 63-2587B for 1.72 cfs to irrigate 86 acres.

On September 6, 2001, a SRBA beneficial use claim was filed for 0.74 cfs to irrigate 37 acres for the same farm described in 63-2587A.

On January 30, 2002, Mann Farms requested that 13.5 acres be retired from 63-2587 to mitigate permit 63-31298.

On September 30, 2002, Department staff reduced water right license 63-2587 to 2.87 cfs and 143.5 acres per Mann Farms' request.

On March 25, 2003, Department staff received notarized request from Mann Farms to reduce water right 63-2587 and SRBA claim 63-2587B by an additional 9 acres be retired from water right 63-2587 to mitigate permit 63-31664. The request also mentions the 13.5 acres used to mitigate 63-31298.

On February 6, 2009, water right 63-2587B was decreed for 3.06 cfs and 153 acres of irrigation. On February 6, 2009, water right 63-2587A was decreed for 1.72 cfs and 86 acres of irrigation.

On February 29, 2009, water right 63-31291 was decreed for 0.74 cfs and 37 acres of irrigation.

From this analysis, it does not appear as though the 13.5 acres retired for permit 63-31298 or the 9 acres for 63-31664 were removed prior to the issuance of the decree for water right 63-2587B. In speaking with SRBA staff, it was determined that the acres would not have been removed in the SRBA process until the licenses were finalized. The amount recommended under 63-2587B was what was accomplished in 1987, and did not include the acres abandoned for permits 63-31298 and 63-31664.

We have amended license 63-31664 to include the following condition:

The right to irrigate 9 acres under water right 63-2587B has been abandoned to mitigate for consumptive losses under this right.

Once the preliminary order has been finalized, we will remove the 13.5 acres and the 9 acres from water right 63-2785B. This will reduce the 157 acres within the permissible place of use to 134.5 acres. This reduction should address the concerns of the consultant and address the mitigation requirements of both permits.

On May 21, 2015, I spoke with Scott King, and let him know what we planned to do. He seemed agreeable to the solution described in this memo.

WATER RIGHT RECORDS

63-2587

Licensed 4/10/1939

3.50 cfs -- 157 acres

63-2586

Licensed 4/10/1939

2.50 cfs -- 82 acres

63-2587

The Department received a notarized request to retire 13.5 acres from 63-2587 to mitigate permit 63-31298. On 9/30/2002, Shelley Keen reduced license 63-2587 to 2.87 cfs and 143.5 acres.

63-2587

On 3/25/2006, the Department received a notarized request from Mann Farms to retire 9 acres from water right 63-2587 and SRBA claim 63-2587B for permit 63-31664. The requested included a reference to the 13.5 acres retired from 2587B to mitigate 63-31298 (13.5 acres) for a total mitigation of 22.5 acres from 63-2587.

ADJUDICATION RECORDS

63-2587

Claimed 2/13/1990

3.14 cfs -- 157 acres

63-2586

Claimed 2/13/1990

1.64 cfs -- 82 acres

63-2587 and 63-2586 combined in SRBA, and then split into separate ownership into 63-2587A and 63-2587B

4.78 cfs 239 acres -- 3/1/1990

There is a note in the database that the 22.5 acres had been removed in the recommendation

63-2587B - Mann Farms

Decreed -- 2/6/2009

3.06 cfs 153 acres

63-2587B Pace-Nielsen

Decreed -- 2/6/2009

1.72 cfs 86 acres

63-31291

Claimed -- 9/6/2001

0.74 cfs -- 37 acres

63-31291 -- Mann Farms

Decreed -- 4/29/2009

0.74 cfs -- 37 acres