

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 85-15636

Priority: May 11, 2005

Maximum Diversion Rate: 0.14 CFS
Maximum Diversion Volume: 33.9 AF

It is hereby certified that HARTY SCHMAEHL

Or

MARJORIE SCHMAEHL

PO BOX 1492

KAMIAH ID 83536-1492

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 11, 2005; and has submitted Proof of Beneficial Use on July 01, 2010. An examination 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 11/15	0.10 CFS	17.5 AF
COMMERCIAL	01/01 to 12/31	0.04 CFS	16.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L9 (NW 1/4 NW 1/4)	Sec. 35, Twp 34N, Rge 03E, B.M.	LEWIS County
GROUND WATER	L10 (NE 1/4 NW 1/4)	Sec. 35, Twp 34N, Rge 03E, B.M.	LEWIS County
GROUND WATER	L10 (NE 1/4 NW 1/4)	Sec. 35, Twp 34N, Rge 03E, B.M.	LEWIS County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
34N 03E 35					2.5	2.5											5.0
					L 10	L 9											

Total Acres: 5

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
34N 03E 35					X	X											
					L 10	L 9											

State of Idaho
Department of Water Resources
Water Right License

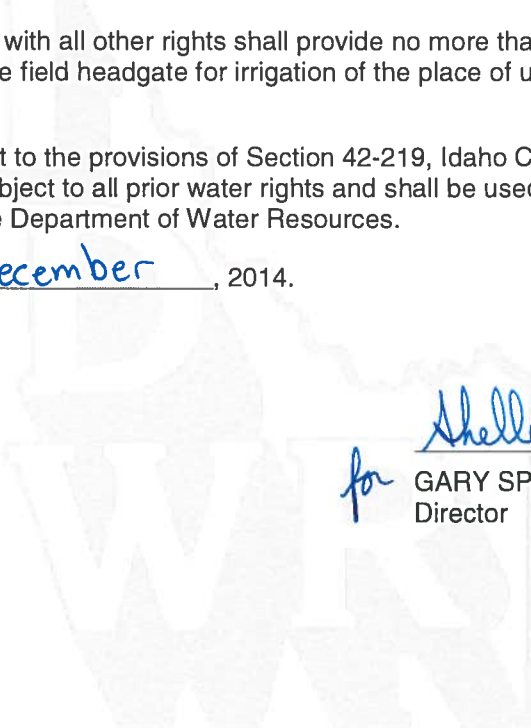
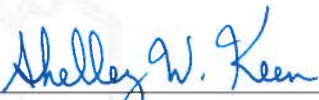
WATER RIGHT NO. 85-15636

CONDITIONS OF APPROVAL

1. Commercial use is for a lodge, cabins, and camp sites.
2. 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.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

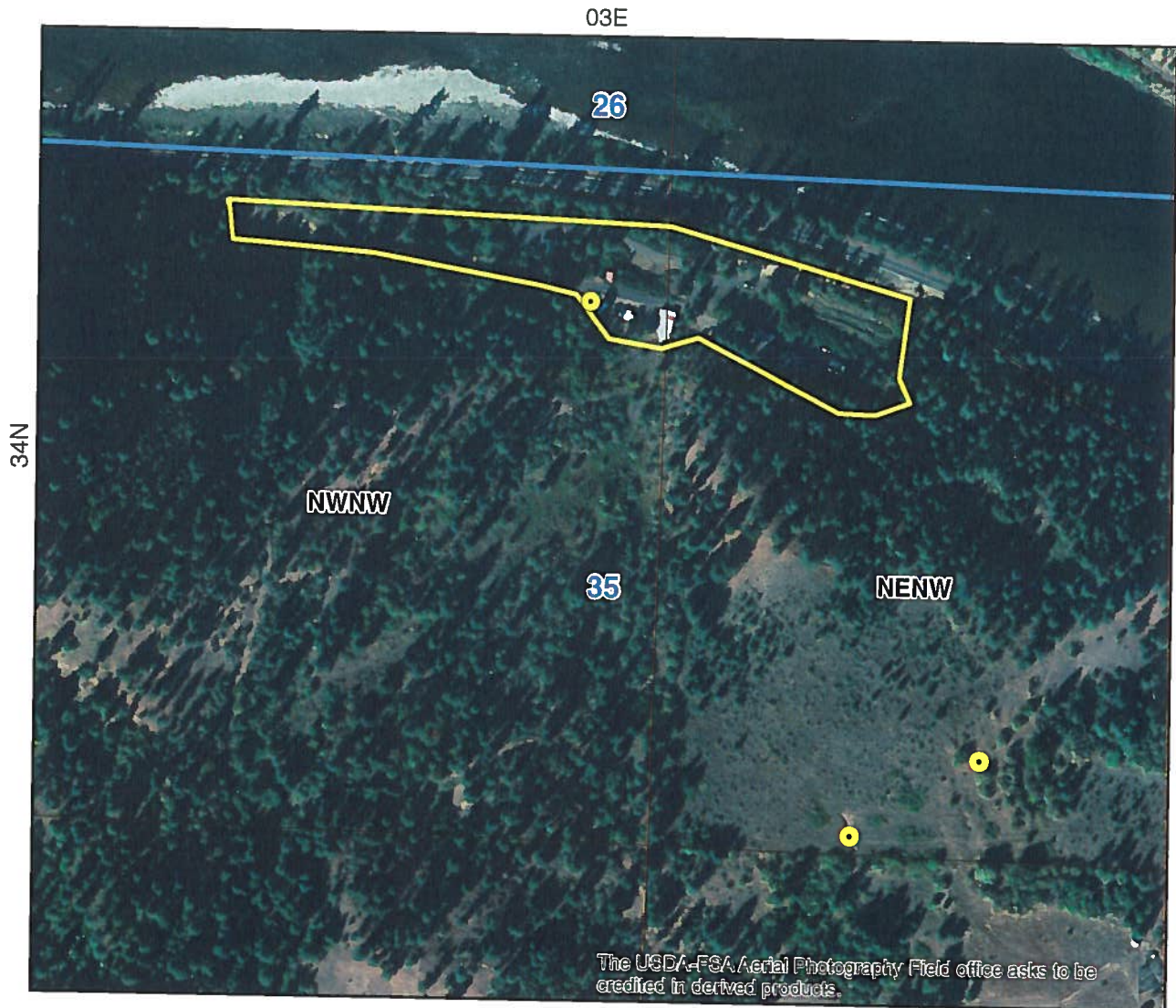
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 15th day of December, 2014.



for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
85-15636

This map depicts the COMMERCIAL AND 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
- Quarter Quarters

0 0.0425 0.085 0.17 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

December 16, 2014

HARTY SCHMAEHL
MARJORIE SCHMAEHL
PO BOX 1492
KAMIAH ID 83536-1492

RE: License No. 85-15636

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)

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2014, 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.

85-15636

**HARTY SCHMAEHL
PO BOX 1492
KAMIAH ID 83536-1492**

**MARJORIE SCHMAEHL
PO BOX 1492
KAMIAH ID 83536-1492**



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. 85-15636

RECEIVED

DEC 15 2014

**DEPARTMENT OF
WATER RESOURCES**

Date of Priority: May 11, 2005

Maximum Diversion Rate: 0.14 CFS

Maximum Diversion Volume: 33.9 AF

Comes now HARTY SCHMAEHL

Or

MARJORIE SCHMAEHL

PO BOX 1492

KAMIAH ID 83536-1492

and represents to the Director of 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. 85-15636, and requests that the permit be changed as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.10 CFS	17.5 AF
COMMERCIAL	01/01 to 12/31	0.04 CFS	16.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L9 (NW1/4NW1/4)	Sec. 35,	Twp 34N,	Rge 03E, B.M.	LEWIS County
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PLACE OF USE: IRRIGATION

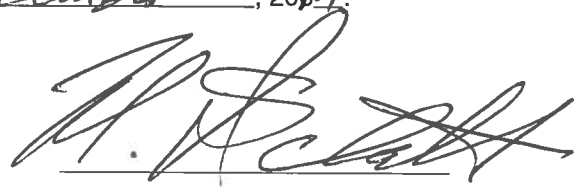
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
34N	03E	35					2.5	2.5											5.0
							L 10	L 9											

Total Acres: 5

PLACE OF USE: COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
34N	03E	35					X	X											
							L 10	L 9											

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 11th day of December, 2014.



(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 85-15636

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100⁰⁰ Received by JMH # CO99701 Date 12-15-14

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 85-15636 with the following:

CONDITIONS OF APPROVAL

1. Commercial use is for a lodge, cabins, and camp sites.
2. 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.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Witness my hand this 15th day of December, 2014.

Shelley W. Keen
for GARY SPACKMAN
Director

Idaho Department of Water Resources Receipt

Receipt ID: C099701

Payment Amount	\$100.00	Date Received	12/15/2014 11:55 AM	Region	STATE
Payment Type	Check	Check Number	1581		
Payer	HEARTHSTONE LODGE LLC/SCHMAEHL,HARTY/MARJORIE				
Comments	AMENDMENT FOR LICENSING PURPOSES 85-15636				

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$100.00	AMENDMENTS	56105	0229	21		1155

JMH

Signature Line (Department Representative)



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

December 4, 2014

HARTY OR MARJORIE SCHMAEHL
PO BOX 1492
KAMIAH ID 83536-1492

RE: Water Right Permit No. 85-15636

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. 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 have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report, there were actually 3 wells connected into the system instead of 2. There is one well in Lot 9 (NWNW) and 2 wells in Lot 10 (NENW) of Section 35, Township 34 North, Range 3 East. We have added these wells onto this water right to allow the owner the ability to use any of the wells to supply water to any of the buildings or irrigated area.

The enclosed Applications for Amendment form depict the elements of the water rights as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$100.00 filing fee within 14 days.

If you have any questions, please contact me.

Sincerely,

Daniel A. Nelson
Staff Hydrologist
Planning Bureau
Idaho Department of Water Resources
Telephone # (208) 287-4856
Email – dan.nelson@idwr.idaho.gov

Enclosure(s)

MEMORANDUM

TO: File 85-15636

FROM: Daniel Nelson – Staff Hydrologist

DATE: November 28, 2014

SUBJECT: Licensing Review for 85-15636

This is the licensing review of the field exam submitted by Sandy Hemenway formerly in our state office. The field exam was done on October 10, 2012. The system associated with this permit allowed for two wells located in Lot 9 (NWNW) and Lot 10 (NENW) of Section 35, Township 34 North, Range 3 East, BM. The field exam has some issues that need to be addressed to prior to licensing of the permit.

Diversion Rate:

Ms. Hemenway didn't include the data for her measurement on well # 3 for this permit. I reviewed her notes, and found that she did measure the well using a bucket and stopwatch method. Ms. Hemenway measured the following:

Measurement = 5 gal in 4 seconds. $Q = (5 \text{ gal} / 4 \text{ sec.}) (60 \text{ sec} / 1 \text{ min}) = 75 \text{ gpm}$

$75 \text{ gpm} / 448.8 = 0.167 \text{ cfs}$

A diversion rate of 0.17 cfs is what Ms. Hemenway's claims to have calculated. A diversion rate of 0.17 cfs would seem reasonable for a 5 Hp pump pumping the standard 50 psi domestic type pressure with a 65 foot pumping water level. The 65 feet is approximately 25 feet below static level, but it is possible. Ms. Hemenway claimed a system pressure of 36 psi, but this doesn't seem reasonable and she shows no photos of a pressure gauge. Without the evidence of a pressure gauge, I have to go with the standard for a pressure tank of 40 to 60 psi range. Ms. Hemenway didn't supply the Hp for the pump, so I can only estimate it is a 5 Hp pump, since a 3 Hp pump couldn't really provide the diversion rate that Ms. Hemenway measured.

Ms. Hemenway limited the diversion rate for the irrigation portion of this permit to 0.02 cfs per acre. This would be acceptable if the owner had developed the entire 12 acres. However, the owner only developed 5 of the 12 acres, so we can allow up to 0.03 cfs or 0.15 cfs for the irrigation component. I am going to recommend that this permit be licensed for 0.15 cfs for irrigation, 0.04 cfs for commercial use for a total of 0.17 cfs.

Ms. Hemenway stated that the system only used well #3 for the diversion rate. The other two wells were basically back up wells and supplied minimum irrigation. Well #2 was drilled in 2012 after proof of beneficial use was submitted, and Well #3 is covered by 85-10441. It does appear as though the diversion rate from well #3 is sufficient to cover the entire diversion rate needed for all of the uses for this permit, so Well # 3's diversion rate is the only rate that can be recognized in this permit.

Diversion Volume:

Ms. Hemenway did the facility volume based on two separate methods, and then added the two volumes together. This doubled the amount of volume that could be allocated to water right. I am going to base the volume on the "Non-Irrigation Water Requirements" table in the field examiner's handbook. This table provides a total of 50 gallons per day for cottages with seasonal occupancy per resident. I called the owner to confirm the number of days and occupants of this resort. My calculations are as follows:

B&B Lodge = 7,200 visitor days X 50 gpd/ visitor = 360,000 gallons per year
Workers Dorm = 1,280 visitor days X 50 gpd/ visitor = 64,000 gallons per year
Trailer = 1,095 visitor days X 50 gpd/ visitor = 54,750 gallons per year
Guest Cabin = 800 visitor days X 50 gpd/ visitor = 40,000 gallons per year
TOTAL = 518,750 GPY / 325850 = 1.6 AF

Visitor days were calculated as follows: B&B Lodge = 30 rooms X 3 people/room X 80 days = 7,200 visitor days. Workers Dorm = 16 people X 80 days = 1,280. Trailer = 3 people X 365 days = 1,095 days. Guest Cabins = 10 visitors 80 days = 800 days.

By using the standard for cottages includes showers and toilet use for the occupants. Ms. Hemenway used this volume and then added the showers and toilets into her calculations, thus doubling the amount of volume allowed. I spoke with the owner to determine the number of visitor days, so I am not sure how Ms. Hemenway compiled her data.

The house/office is the original home, so it is covered under water right 85-10440. I didn't include that use under the allowable volume for this water right. Therefore, the maximum allowable will be 1.6 af.

Points of Diversion:

Ms Hemenway used GPS to locate the well for this system. I agree with Ms. Hemenway's well locations. Per the owner, the system was set up to operate any of the 3 wells as needed. Ms. Hemenway suggested in her narrative that the wells were connected together, and then provided a system diagram that showed two separate systems. I contacted the owner, and he told me that there is a 1.5 inch line connecting the two systems together between the house/office and the shop. An amendment was sent to include the 3 wells for the permit. Please refer to the diversion rate discussion above for additional information on the water right limitation with the 3 wells.

Conditions:

There will be no need to add a combined use limit for water rights 85-15636 and 85-10440. I did not include the office/house in the volume calculations, because that use is covered exclusively by 85-10440. Therefore, no combined use conditions are necessary. We will not carry over the permit conditions limiting size of the lodge. The only condition that will be carried over is the 01M condition. Condition R63 will be changed to R67 to account for change to the maximum rate per acre.