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May 9, 2013

Jeff Peppersack
Chief, Water Allocation Bureau
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Re: Volume limit for water right 63-33384

Dear Jeff:

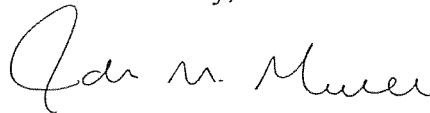
I write on behalf of Farm Development Corporation, the owner of water right 63-33384, to request that you review and ultimately change the diversion volume on this right. The current IDWR record shows this right has a diversion volume of 27.9 AFA, which is only 1.11 AF per acre for the 25 acres authorized. We request that you amend the diversion volume to 112.5 AFA. This will require moving 85 AFA away from right 63-33383, but as explained below, such a move is appropriate.

Rights 63-33383 and 63-33384 are derivatives of right 63-3599B, which was licensed for 904.5 AFA on 280 acres, which provides for 3.2 AFA. However, the 280 authorized acres included 80 acres in the W1/2 of the SW1/4 of Section 14, T02N, R03W for which another, senior ground water right, no. 63-3589, already provided a full 4.5 AF per acre. Spreading the 904.5 AFA diversion volume across the 200 acres authorized by right 63-3599B in Section 15 (which do not contain any overlap) results in a per acre diversion volume of 4.5 AFA for those acres. Accordingly, as right 63-3599B was split through transfers and ownership changes, IDWR allocated the diversion volume such that Section 15 acres kept 4.5 AF per acre, and the "deficit" inherent from the overlap with 63-3589 followed the portion of the right that remained with the Section 14 acres. A 2005 IDWR Memorandum analyzing a proposed Transfer No. 71840, which seeks to transfer a portion of what was originally 63-3599B, provides a good summary of this. Subsequent transfers and splits followed the same pattern and eventually led to right 63-32921, which had a place of use of 101.3 acres, 25 in Section 15 and 76.3 in Section 14 (3.7 acres in Section 14 had been split off and become right 63-32919). Because the full 4.5 AF per acre had been successively left with Section 15 acres on prior splits, the diversion volume for right 63-32921 was only 112.88 AFA, or 1.11 AF per acre. However, as to be expected given the history, spreading this remaining 112.88 AFA on the 25 acres in Section 15 results in a 4.5 AF per acre diversion volume.

Farm Development purchased the 25-acre portion of right 63-32921 appurtenant to the Section 15 ground. A copy of the notice of change of ownership and attachments associated with this purchase is attached. Absent the background and explanation above, the processing of the change resulted in a pro rata split of the 112.8 AFA across all 101.3 acres, including the 76.3 acres in Section 14. Consequently, Farm Development's right coming out of the change of ownership, right 63-33384, contains only 27.9 AFA, or 1.11 AF per acre. Right 63-33383, the 76.3-acre portion of what was right 63-32921, has 85 AFA, but this volume is not useable because right 63-32919, a derivative of 63-3589, which is senior to right 63-33383, already provides the full 4.5 AF per acre diversion volume standard for this area.

Based on the history and explanation above, Farm Development requests that you amend the water rights records for right 63-33384 to state that it authorizes 112.8 AFA. Please feel free to contact me if you care to discuss this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "John M. Marshall".

John M. Marshall