

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 47-08395

Priority: January 26, 1996

Maximum Diversion Rate: 0.30 CFS
Maximum Diversion Volume: 32.5 AF

It is hereby certified that ANTONIO H AZEVEDO
2064 E 3900 N
FILER ID 83328 has complied with the terms and conditions of the permit,
issued pursuant to Application for Permit dated January 26, 1996; and has submitted Proof of Beneficial
Use on July 08, 1999. An examination confirms 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>
DOMESTIC	01/01 to 12/31	0.08 CFS	1.8 AF
STOCKWATER	01/01 to 12/31	0.30 CFS	22.0 AF
COMMERCIAL	01/01 to 12/31	0.30 CFS	8.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SW1/4SE1/4	Sec. 12, Twp 10S, Rge 15E, B.M.
TWIN FALLS County		
GROUND WATER	SW1/4SE1/4	Sec. 12, Twp 10S, Rge 15E, B.M.
TWIN FALLS County		

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE	NW	SW	SE	Totals
10S 15E 12	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	X

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE	NW	SW	SE	Totals
10S 15E 12	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	X

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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	
10S	15E	12															X		

CONDITIONS OF APPROVAL

1. The permit holder shall install and maintain a totalizing meter and an air line to monitor use and water levels at the points of diversion.

Commercial and stockwater use is for a dairy.

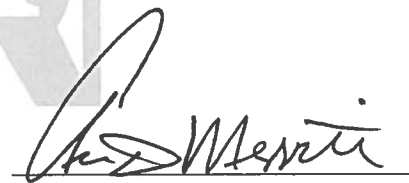
The permit holder shall retain all shares within Twin Falls Canal Company appurtenant to SWSE, S12, T10S, R15E and shall use the shares in full on this tract until such time that the extra shares or the shares not needed as a result of drying up of lands for construction of the dairy (minimum of 14 shares) can be provided to a future recharge effort for mitigation.

2. Domestic use is for 3 homes and does not include lawn, garden, landscape, or other types of irrigation.

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.

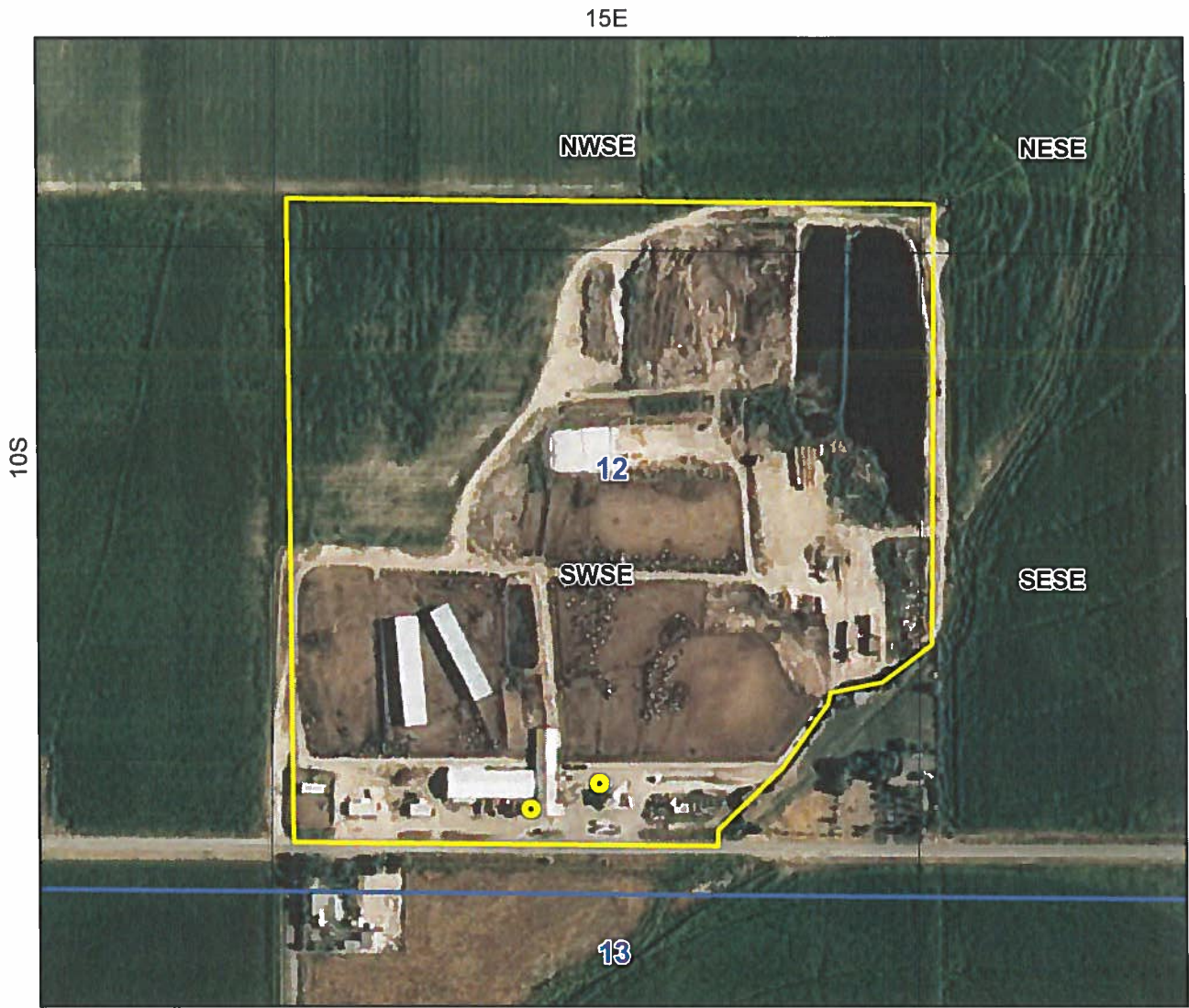
Signed this 17th day of June, 2014.

FOR

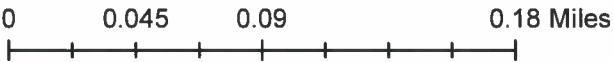

GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
47-8395

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



State of Idaho
Department of Water Resources
Attachment To Water Right License
47-8395

This map depicts the DOMESTIC 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.

15E



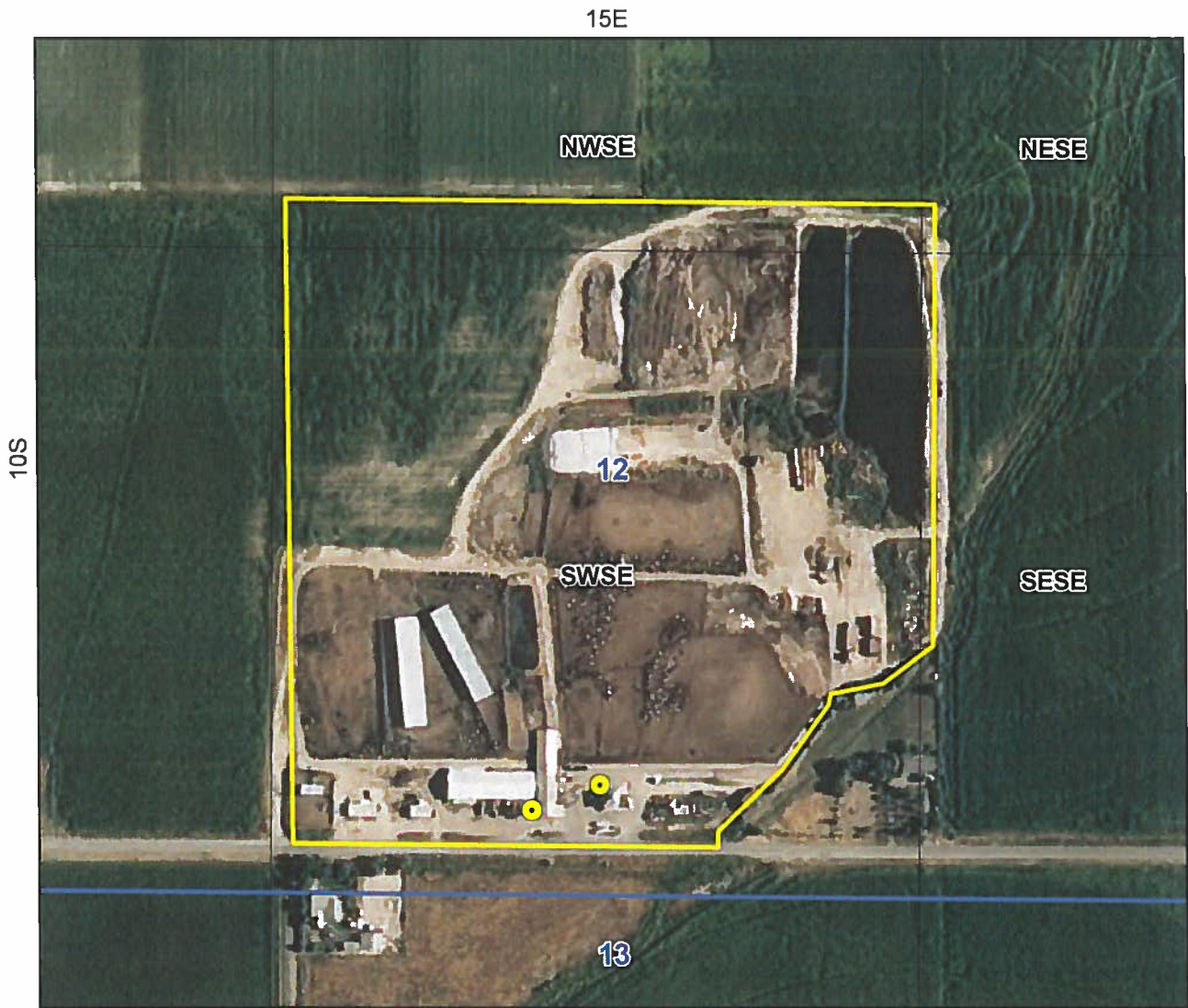
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.015 0.03 0.06 Miles

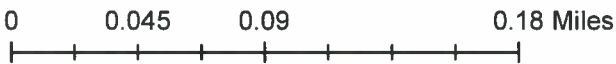


State of Idaho
Department of Water Resources
Attachment To Water Right License
47-8395

This map depicts the COMMERCIAL 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





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 18, 2014

ANTONIO H AZEVEDO
2064 E 3900 N
FILER ID 83328

RE: License No. 47-8395

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.

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 208-736-3033.

Sincerely,

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: RABO AGRIFINANCE INC

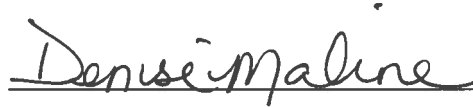
CERTIFICATE OF SERVICE

I hereby certify that on June 18, 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. 47-8395

**ANTONIO H AZEVEDO
2064 E 3900 N
FILER ID 83328**

**RABO AGRIFINANCE INC *(Present Owner)*
WAYNE GRAFFIS
4045 ST CLOUD DR, STE 200
LOVELAND CO 80538**

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

**Denise Maline
Administrative Assistant**

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

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 3, 2014

ERICK POWELL, Ph.D., P.E.
BROCKWAY ENGINEERING, PLLC
2016 WASHINGTON ST N, STE 4
TWIN FALLS, ID 83301

Dear Erick,

Thank you for letting IDWR know what role Brockway Engineering will be taking in the licensing of Permit 47-8395. In order to meet the deadlines you outline in your June 2, 2014 letter, we request the following information be provided by either Brockway Engineering or an appropriate representative within seven days of this letter:

- (1) Well data for the two wells drilled in 1975 & 1996. This would include the following information: well size, well depth, static water level, pump make & model, and pump horsepower at or near the time proof of beneficial use was filed (1999). We also request you provide an estimate of the operating pressure at the time of the permit development.
- (2) Number and type of dairy cows that were present at the facility at or before the time of development (1999). Some form of evidence will be needed to confirm the numbers reported. This could be in the form of official reports, receipts, affidavits, etc... Specifically, IDWR needs to know the number of milking cattle, dry cattle, and replacement cattle (along with ages of the replacements).
- (3) A list of all uses at the dairy along with an estimate of required flow rate and consumption. We need to know the type of washing method- manual, automatic, or sprinklers. If sprinklers are used, we need to know the number of sprinklers in the holding pen, the nozzle discharge, and the hours of operation during the day. We also need to know the number of milkings/day, and average lbs of milk produced/day. We also need to know if a plate cooler was used and also if any recycled water was used at the facility. If recycled water was used, for what purposes and an estimate of the quantity. If any corral misters were used, we need to know the number of misters in the holding pen, the nozzle discharge, the operation time of the misters, and the days/year the misters were used. In addition, we need to know the hours per day of operation of the pump for commercial use and for stockwater use. Some form of evidence will be needed to confirm the estimates or figures reported.

Because both wells are currently inoperable, IDWR can only calculate an additive theoretical estimate of the flow rates that could be provided by both wells. If either well can be made operable and conditions are suitable, IDWR will attempt to make a flow measurement. IDWR cannot complete a flow rate measurement on the well drilled in 2004, because it was not in existence during the development period. Likewise, because the flow meter is inoperable, IDWR can only calculate volume based on the information provided and cannot exceed what was authorized under the permit.

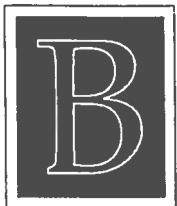
If you have any questions regarding what is required to complete the field exam by the expected deadlines, please let me know. Failure to provide the required information by Brockway Engineering or an appropriate representative within seven days could delay the licensing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Bitzenburg', with a stylized, flowing script.

Jim Bitzenburg
Water Resource Agent

CC: File: 47-8395, Wayne Graffis (Rabo Agrifinance), Rob Steinke (Rabo Agrifinance)



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

June 2, 2014

Mr. Jim Bitzenburg
Idaho Department of Water Resources
650 Addison Ave. West, Suite 500
Twin Falls, Idaho 83301-5858

Re: License of Water Right Permit No. 47-8395
Project No. 1269-01-2014

Dear Jim,

As you know, Brockway Engineering, PLLC, has been retained by Rabo AgriFinance to assist IDWR in licensing water right permit no. 47-8395. This letter summarizes a few items that we have discussed on the phone, including our expectations from IDWR.

We appreciate the time and effort that you have contributed regarding this water right permit. This is a usual situation, and it is in the best interest of all the parties involved to finalize this license correctly and expeditiously. The original water permit was prepared for Antonio Azevedo and submitted to IDWR in 1995. IDWR approved the permit on May 15, 1996 with proof being due on May 1, 1999. There were communication errors between IDWR and Mr. Azevedo in 1999, which resulted in Mr. Azevedo not filing the proof of beneficial use form until July 8, 1999. IDWR issued an order of reinstatement for this permit on December 27, 1999 based on the filed proof of beneficial use and including the appropriate license fees.

According to IDAPA 37.03.02, IDWR now has responsibility to perform a licensing exam based on the 1999 proof of beneficial use. Since the proof has already been filed, no other entity is authorized to complete the licensing exam without authorization from IDWR. IDWR has not authorized another certified water rights examiner to complete the licensing exam and IDWR is under obligation to complete the exam. Rabo AgriFinance desires to have IDWR complete the licensing exam, but wishes Brockway Engineering to assist and review the licensing exam calculations and conclusions prior to submission to the Director for final signature.

The system has been altered substantially since the proof of beneficial use statement was filed in 1999. The license exam must be based on the infrastructure that existed in 1999. I would encourage IDWR to first confirm

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

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TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

what was in place in 1999, including the number of wells, size of wells, depth of wells, well construction, pump types, pump motors, etc. The permitted uses include irrigation, stockwater, commercial, and domestic use; each uses must be evaluated. We have discussed using the historical records from Walker Water Systems and to calculate the theoretical diversion rate from one well, but the total diversion rate, volume, and irrigated area must consider all aspects of the permit.

This property is currently under contract to be sold, and the sale is contingent on the licensure of this permit. Considering that it has taken almost 15-years since proof was filed, it is expected that IDWR will finalize this licensing exam quickly. I would like to discuss your preliminary recommendation on June 16th.

Summary of Expectations:

1. IDWR to complete the licensing exam
 - a. If questions arise, IDWR may seek input from Rabo AgriFinance or Brockway Engineering.
2. Provide preliminary exam report to Brockway Engineering no later than June 16, 2014
3. Finalize license by June 30, 2014

Cordially,



G. Erick Powell, Ph.D., P.E.

cc: Wayne Graffis - electronic
Rob Stinkie - electronic