
Memorandum

Date: April 23, 2014

To: File 55-13891

From: Craig L. Saxton

RE: Permit 55-13891 – Secondary Review

Background:

On April 13, 2009, the Department of Water Resources issued permit no. 55-13891 (permit) to Thomas Quintana (permit holder) authorizing him to appropriate 20 acre feet from Deer Creek to be used for stockwater storage purposes within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 06 North, Range 04 West, B.M., Owhyee County.

On August 3, 2009, the Department received Proof of Beneficial Use for the permit.

On April 27, 2013, the Department conducted a field examination and found that the permit holder had developed a portion of his water use at a different legal description than authorized by the permit. The reported change included development of a stockwater pond in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 06 North, Range 04 West, B.M., Owhyee County (BLM Property)

On October 17, 2013, the Department sent notice to the permit holder's successor in interest, Quintana Ranch Limited Partnership, stating that the permit has to be amended before the Department can issue a water right license including the portion of use developed at a different legal description than authorized by the permit. An Application for Amendment form was enclosed with the notice.

On November 27, 2013, the Department received the Application for Amendment of the permit which described the place of use and points of diversion found by the examiner.

On December 6, 2013, the Department issued license no. 55-13891, including a point of diversion and a portion of the place of use in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 06 North, Range 04 West, B.M., Owhyee County. The Department did not choose to advertise the amendment despite that the amendment proposed to change the permit to authorize a POD and POU on BLM property when previously the permit only authorized development in privately owned property.

On December 20, 2013, the BLM filed a Petition for Reconsideration in connection with license no. 55-13891.

On January 8, 2014, the Department issued an order granting the BLM's petition for reconsideration

and withdrawing the preliminary order. Quintana Ranch Limited Partnership was given until February 10, 2014 to respond to the allegations in the petition by submitting additional written facts or written legal argument, and/or by requesting a hearing regarding the petition. To date, the permit holder has not contacted the Department.

The application for amendment proposed changing the authorized point of diversion from property owned by the permit holder to property owned by BLM. Had the Department advertised the amendment, BLM would have had the opportunity to file a protest to the amendment.

Because the permit holder did not respond to the opportunity to request a hearing regarding BLM's petition, nor did they choose to provide additional evidence to support development of the POD and POU on BLM, the Department will remove the reference to the POD and POU in the SENE of S24 and reissue the license. The permit holder will have the opportunity to file a petition of reconsideration.

The Department will still consider the permit amendment as accepted and valid.