

MEMO

FROM: Allen Merritt 

DATE: April 22, 2014

TO: Transfer 78927 File

SUBJECT: Defense from forfeiture of recharge rights

During the discussions between the City of Gooding, Brockway Engineering and the Department at the time when Permit 37-22850 was being amended there was concern expressed by the city that the recharge rights may be forfeited if not fully used for mitigation. The city requested that a memo be memorialized to capture this discussion. This memo is intended to do that.

Transfer 78927 was approved in 2014 to convert several decreed rights from the Little Wood River held by the city, that were originally used to irrigate land within the city, to the use for ground water recharge. The water recharged in essence mitigates for a new permit numbered 37-22850 for ground water diversion for municipal use within the city.

The concern of the city was that if for some reason the permit was not fully developed and not all water recharged was needed for mitigation would that set up a situation that the decreed rights may be partially forfeited. It is the Departments understanding that even if the permit was not fully developed (for example.. that no new wells were ever drilled) this failure would not be the determining factor in determining forfeiture of the decreed river rights. It is the failure to fully utilize the decreed river rights for ground water recharge that would be considered in any forfeiture analysis.

In the future if it is found that the permit is not fully developed and not all recharged water is needed for mitigation for the partially developed permit the city may consider applying the excess recharge to other mitigation needs or change the nature of the excess recharge to other purposes.