



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 23, 2013

JERRY L TLUCEK
MARY LOUISE TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

RE: License No. 63-11777

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 208-287-4916.

Sincerely,

Craig L. Saxton
Water Rights Supervisor

Enclosure(s)

cc: SPF WATER ENGINEERING LLC
DYLAN LAWRENCE

CERTIFICATE OF SERVICE

I hereby certify that on December 24, 2013, 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.

63-11777

**JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641**

**MARY LOUISE TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641**

**DYLAN LAWRENCE
101 S CAPITOL BLVD 10TH FL
PO BOX 829
BOISE ID 83701-0829**

**SPF WATER ENGINEERING LLC
C/O SCOTT N KING
300 E MALLARD DR STE 350
BOISE ID 83706**



**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
Water Right License

WATER RIGHT NO. 63-11777

Priority: April 17, 1992

Maximum Diversion Rate: 1.63 CFS

It is hereby certified that JERRY L TLUCEK

And

MARY LOUISE TLUCEK

15188 S CAN-ADA RD

MELBA ID 83641

has complied with the terms and conditions of the permit,
issued pursuant to Application for Permit dated April 17, 1992; and has submitted Proof of Beneficial Use on
May 01, 2013. An examination confirms water is diverted from:

SOURCE

GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/01 to 11/15

DIVERSION RATE

1.63 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4SE1/4 Sec. 20, Twp 01S, Rge 01W, B.M. ADA County

GROUND WATER NW1/4NW1/4 Sec. 29, Twp 01S, Rge 01W, B.M. ADA County

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	
01S 01W 19									12.0		31.0					.9	43.9
									L 4								
01S 01W 20							.6		17.0	13.0	38.0	6.3		1.2			76.1
01S 01W 29	.3	2.8			1.1												4.2
01S 01W 30			26.0		26.0	29.0	30.0	30.0									141.0
						L 1	L 2										

Total Acres: 265.2

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1193 af at the field headgate for the lands above.
2. Rights 63-7270A, 63-7270B, 63-8604 and 63-11777 when combined shall not exceed a total diversion rate of 4.35 cfs.
3. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

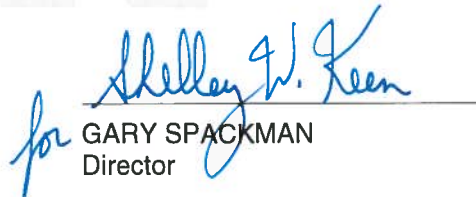
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-11777

4. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
5. The following rights are diverted through point(s) of diversion described above: 63-7270A, 63-7270B, 63-8604, 63-11777.
6. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
7. This right does not authorize the irrigation of land not previously irrigated.
8. 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 use power records to determine the amount of water diverted and shall annually report the information to the Department.
9. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
10. This right does not grant any right-of-way or easement across the land of another.

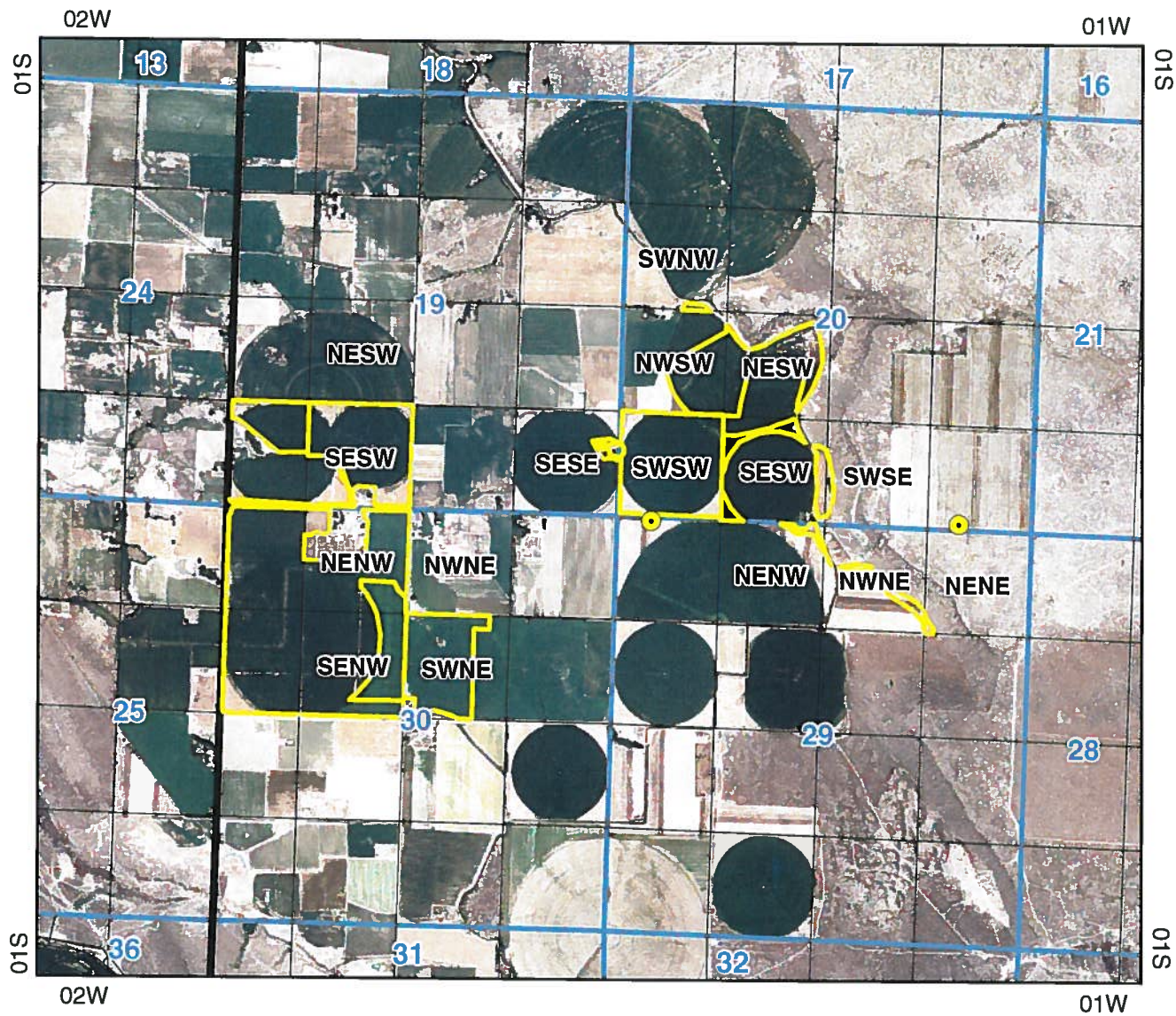
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 19th day of December, 2013.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Water Right License
63-11777

This map depicts the 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 0.5 1 Miles

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-11777

RECEIVED

JUN 06 2013

DEPARTMENT OF
WATER RESOURCES

Date of Priority: April 17, 1992

Maximum Diversion Rate: 1.63 CFS

Comes now JERRY L TLUCEK

And

MARY LOUISE TLUCEK

15188 S CAN-ADA RD

MELBA ID 83641

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. 63-11777, and requests that the permit be changed as follows:

Source: GROUND WATER

BENEFICIAL USE**PERIOD OF USE****RATE OF DIVERSION**

IRRIGATION

03/01 to 11/15

1.63 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4SE1/4 Sec. 20, Twp 01S, Rge 01W, B.M. ADA County

GROUND WATER NW1/4NW1/4 Sec. 29, Twp 01S, Rge 01W, B.M. ADA County

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	
01S 01W 19											11.0	30.0				.9	41.9
											L 4						
01S 01W 20									17.0	13.0	38.0	2.3			.6		70.9
01S 01W 29	.3	2.8			.8												3.9
01S 01W 30			26.0		26.0	29.0	30.0	27.0									138.0
						L 1	L 2										

Total Acres: 254.7

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 4th day of June, 2013.

Mary Louise Tlucek
Jerry L Tlucek

(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-11777

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = 100.00 Received by HP # 0097295 Date 6-6-13

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. 63-11777 with the following:

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1146 af at the field headgate for the lands above.
2. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
3. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
4. The following rights are diverted through point(s) of diversion described above: 63-7270A, 63-7270B, 63-8604, 63-11777.
5. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. This right does not authorize the irrigation of land not previously irrigated.
7. 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 use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 63-11777

9. This right does not grant any right-of-way or easement across the land of another.

Witness my hand this 19th day of December, 2013.

for Shelley W. Keen
GARY SPACKMAN
Director



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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

10/9/2013

JERRY L TLUCEK
MARY LOUISE TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

RE: Water Right Permit No. 63-11777

Dear Mr. and Mrs. Tlucek:

The enclosed amendment shows the changes discussed with Scott King. These changes were made to the land included in the place of use. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it within 14 days.

If you have any questions, please call me at (208)287-4879.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sandra Thiel'.

Sandra Thiel
Water Resource Planner

Enclosure(s)

cc: Scott King, SPF Water Engineering

Thiel, Sandra

From: Scott King [SKing@spfwater.com]
Sent: Friday, October 04, 2013 1:44 PM
To: Thiel, Sandra
Subject: 63-11777
Attachments: POU63_11777_discrepancy.prj; POU63_11777_discrepancy.sbn; POU63_11777_discrepancy.sbx; POU63_11777_discrepancy.shp; POU63_11777_discrepancy.shx; POU63_11777_discrepancy.dbf

Sandra,

Here are the discrepancies that I identified. Attached is a shapefile for the lands discussed in S1/2 SW1/4 Section 19

Section 19

- SWSW: 63-8604 shape is 13.4 acres with 13 listed in decree. Irrigated is 25. 63-11777 should be licensed for 12 acres. I find 0.6 acres irrigated but not included in any shapefile. This 0.6 plus 0.4 discrepancy between 63-8604 shape and decree accounts for the 1-acre difference. (Add 1).
- SESW: I found 0.9 acres irrigated but not included in any shape. This accounts for nearly all of the difference between my BUFE recommendation and IDWR's amended license. I recommend adding 0.9 acre to IDWR's amended license.
- SESE: My BUFE recommendation is 1 acre; IDWR amended license lists 0.9 acres. The difference is minimal.

Section 20

- SWNW: IDWR's shape includes 0.6 acres, but this is not listed in the amended license. I recommend including 0.6 acres in the amended license. (Add 0.6)
- SESW: 63-8604 shape is 34.5 acres with 29 listed in decree. Irrigated is 35. 63-11777 should be licensed for 6 acres, not 2.3. (Add 3.7)
- SWSE: IDWR recommends 0.6 acres. My BUFE found 0.7 acres. The difference is minimal (0.1 acre).

Section 29

- NENE: IDWR recommends 0.3 acre. My BUFE found 0.4 acre. The difference is minimal (0.1 acre).
- SWNE: 9 acres of land listed in taxlots as owned by BLM. As we discussed, Tlucek plans to move his pivot and no longer irrigate the BLM-owned property. We would like to have this removed from the place of use.
- NENW: IDWR recommends 0.8 acre. My BUFE found 1 acre.
- SENW: 63-8604 shape is 40 acres with 38 listed in decree. Irrigated is 39. 63-11777 should be licensed for 1 acre. (Add 1)

Section 30

- SENW: 63-8604 shape is 17.8 acres with 9 listed in decree. Irrigated is 40. 63-11777 should be licensed for 31 acres, not 27. (Add 4)

Please let me know if you have any questions.

Thanks,
Scott

Scott N. King, P.E. | Supervising Engineer

SPF Water Engineering, LLC
300 E Mallard Drive, Suite 350 | Boise, ID 83706
p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2129
e. sking@spfwater.com | w. www.spfwater.com

Thiel, Sandra

From: Dylan Lawrence [DBL@moffatt.com]
Sent: Friday, June 28, 2013 4:09 PM
To: Thiel, Sandra
Cc: Scott King
Subject: RE: 63-11777

Hi Sandra.

We are still looking into the BLM overlap issue that was identified during this licensing process, and what some of the options might be going forward. This has the potential to affect how the water right is licensed, so I would suggest that we see that process to its conclusion before issuing the license. Proof of beneficial use and the beneficial use field exam report have been submitted, so I am not aware of any other deadlines that would preclude that approach. If you do not agree with this approach, please let me know.

In the meantime, Scott King will be working with you on some of the other discrepancies between his exam and IDWR's review of the irrigated acreages.

Thank you,
Dylan

Dylan Lawrence
Moffatt Thomas Barrett Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829
Phone & fax: (208) 385-5417

From: Dylan Lawrence
Sent: Thursday, June 06, 2013 9:17 AM
To: Thiel, Sandra
Cc: 'Scott King'
Subject: RE: 63-11777
Importance: High

Sandra:

I just spoke to Jerry Tlucek (he and his wife are the owners of this water right), and they inadvertently signed and mailed the license amendment form to IDWR yesterday, before Scott King conducted his review. Please disregard that submission, until you and Scott reconcile the discrepancy Scott has identified below.

If you need anything additional or more formal, please just let me know what you need.

Thanks for your understanding.

Dylan

Dylan Lawrence
Moffatt Thomas Barrett Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829
Phone & fax: (208) 385-5417

From: Scott King [<mailto:SKing@spfwater.com>]
Sent: Wednesday, June 05, 2013 3:27 PM
To: Thiel, Sandra
Cc: Dylan Lawrence
Subject: RE: 63-11777

Hello Sandra,

The number of acres listed in the licensing amendment is significantly fewer than what I found in my examination. Can you send a copy of your shapes so that we can review the details?

Thank you,
Scott

From: Thiel, Sandra [<mailto:Sandra.Thiel@idwr.idaho.gov>]
Sent: Wednesday, June 05, 2013 11:52 AM
To: Scott King
Subject: RE: 63-11777

Hello, The attached file is the licensing amendment.

From: Scott King [<mailto:SKing@spfwater.com>]
Sent: Tuesday, June 04, 2013 5:48 PM
To: Thiel, Sandra
Cc: Dylan Lawrence
Subject: 63-11777

Hello Sandra,

Thank you for reviewing the licensing exam for Jerry Tlucek so quickly. Attached is a copy of a letter I received today. Can you also send a copy of the licensing amendment form? Email is fine.

Thank you,
Scott

Scott N. King, P.E.
Supervising Engineer
SPF Water Engineering, LLC
300 E Mallard Drive, Suite 350
Boise, Idaho 83706
Phone: (208) 383-4140
Fax: (208) 383-4156
sking@spfwater.com
www.spfwater.com

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State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

6/3/2013

JERRY L TLUCEK
MARY LOUISE TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

RE: Water Right Permit No. 63-11777

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, the following elements were developed differently than described on your permit. The permit issued May 6, 2008 included land in T1S R1W Sections 19, 20 and 30. According to the information submitted by SPF Water Engineering, the land developed under this permit also includes irrigation in Section 29.

The enclosed Application for Amendment form depicts the elements of the water right 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 call me at (208)287-4879.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sandra Thiel'.

Sandra Thiel
Water Resource Planner

Enclosure(s)
cc: Scott King, SPF Water Engineering

MEMORANDUM

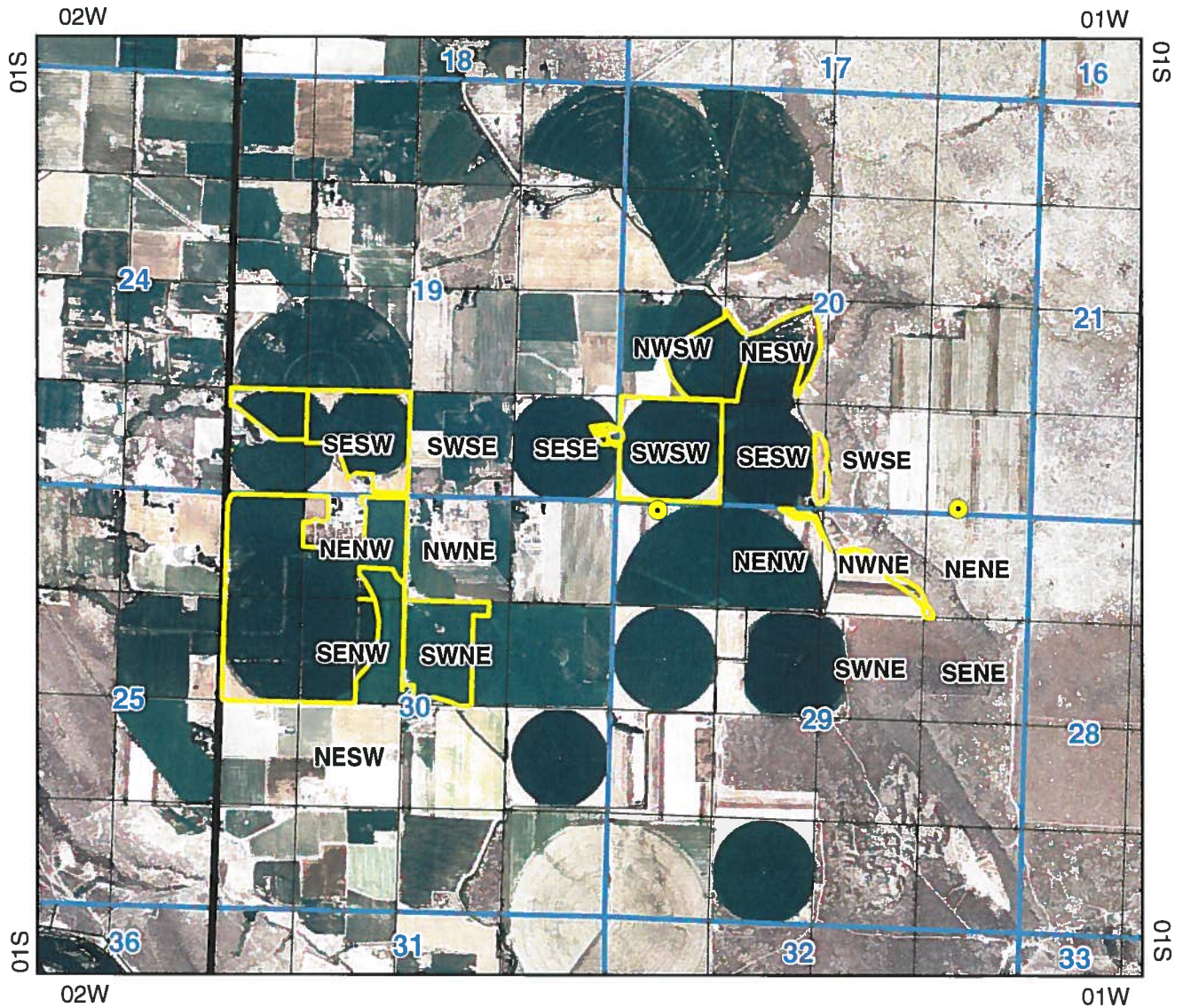
TO: Water Rights File 63-11777
FROM: Sandra Thiel
DATE: May 28, 2013
SUBJECT: Irrigated acres

SPF Water Engineering recommended 272.7 acres for this water right. After an analysis of their data using tax lot information and aerial photography, I recommend 254.7

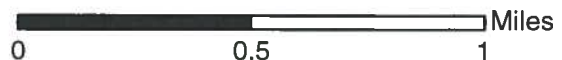
SPF submitted an analysis of overlapping water rights and subsequent rate and volume limitations. The license for water right 63-8604 allows the irrigation of 319 acres. However, the GIS shape file for this right includes 350 acres. SPF provided a shape file to the Department for 63-11777. This file was the result of GIS processing and included sliver areas that bordered the existing acres covered by 63-8604. These slivers were removed from the shape file and the polygons were updated to more closely match the aerial photography and the land irrigated by 63-8604. The SPF shape file also included 9 acres of land in T1S R1W Section 29 SWNE Lot 1. Tax lot data show this portion as falling on BLM land and the polygon was removed from the file.

State of Idaho
Department of Water Resources
Water Right License
63-11777

This map depicts the 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.

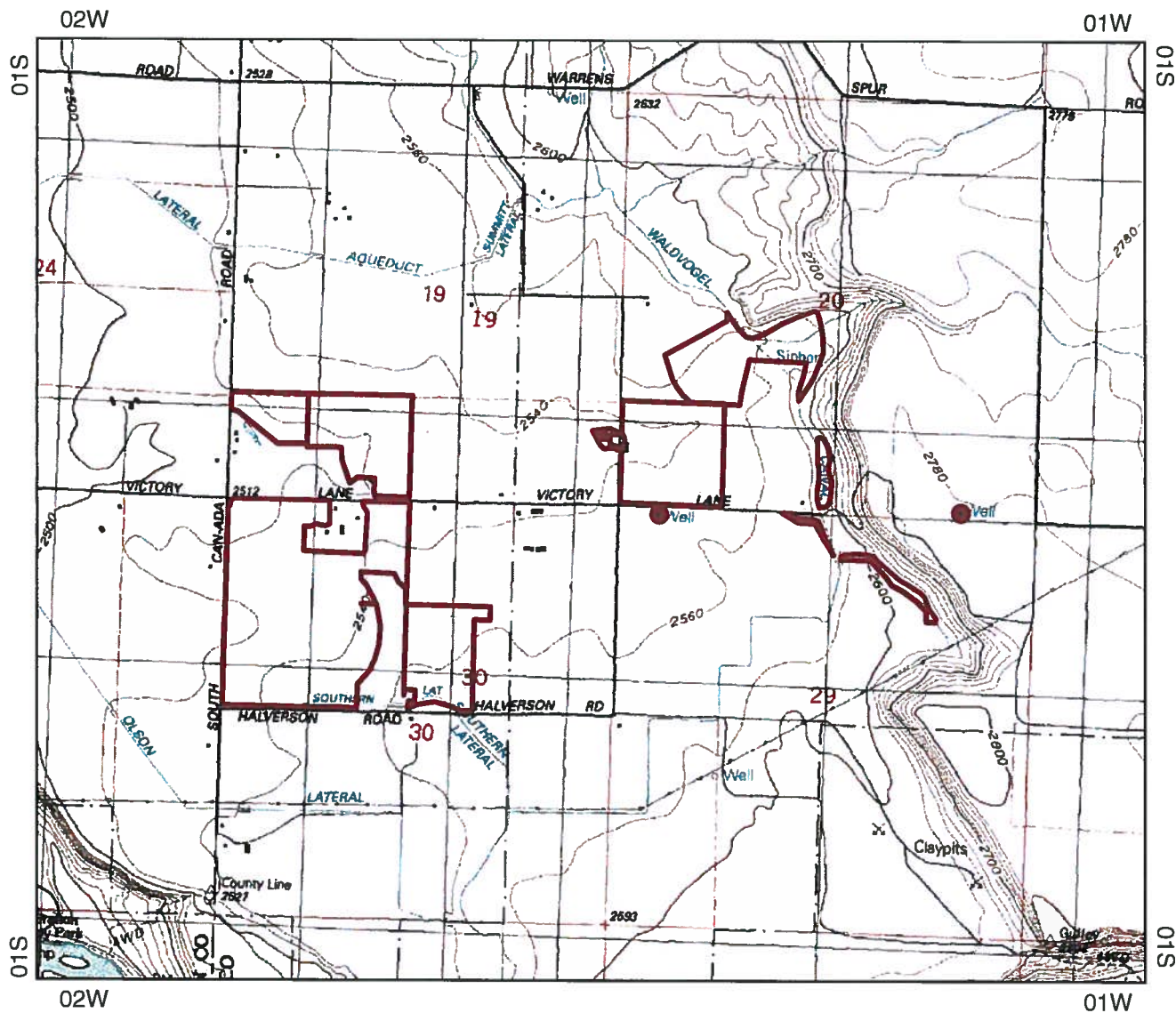


-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters



State of Idaho
Department of Water Resources
Water Right License
63-11777

This map depicts the 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.

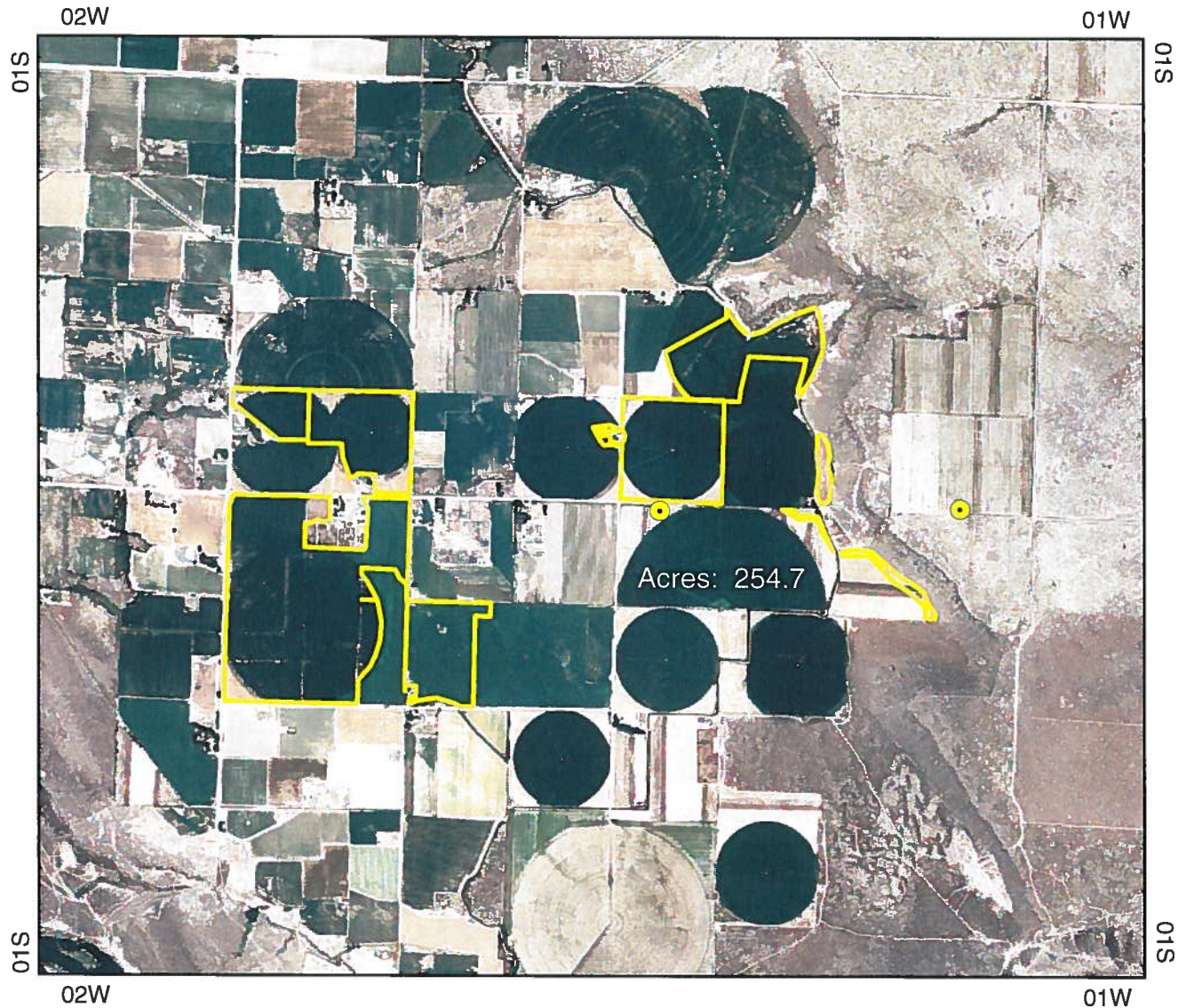


- Point of Diversion
- Place Of Use Boundary



State of Idaho
Department of Water Resources
Water Right License
63-11777

This map depicts the 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

0 0.5 1 Miles