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Attorney for Obendorf Malheur Farms, LLC, Petitioner

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SEP 24 2013

DEPARTMENT OF
WATER RESOURCES

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SEP 25 2013

WATER RESOURCES
WESTERN REGION

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

In the Matter of Transfer No. 78691

PETITION FOR RECONSIDERATION

Petitioner, Obendorf Malheur Farms, LLC, by and through its counsel of record, Dana L. Hofstetter of Hofstetter Law Office, LLC, pursuant to Title 67, Chapter 52, Idaho Code and IDAPA 37.01.01 respectfully file this Petition for Reconsideration of Transfer No. 78691. This Petition is supported by the following Memorandum and other matters of record with the Department.

Memorandum

I. Statement of facts.

Obendorf Malheur Farms, LLC purchased a portion of the place of use of 63-11700 (now 63-33475) together with all appurtenant water rights. A copy of the Deed is in the record. There is an apparent anomaly in the licensing of 63-11700 that affects the splits of the water right, and, thus, this Transfer.

The anomaly is that the 77 acre place of use for Permit 63-11866 inexplicably was added to the licensed place of use for 63-11700, although this acreage was covered under Permit 63-11866 and although Permit 63-11700 did not cover this acreage. These 77 acres ended up being incorrectly covered under both of these ground water licenses with 1992 priorities. Kelly Christianson's letter of September 11, 2012 regarding the split analysis of 63-11700, appears to overlook this 77 place of use licensing error.

In summary, it appears that License No. 63-11700 needs to be corrected to exclude the 77 acres licensed under 63-11866 and the resulting splits of 63-11700 (63-33475 and 63-33476 and now, 63-33801) need to be modified to reflect this correction.

II. Water Right No. 63-33801 should be apportioned 0.72 cfs for irrigation of 36 acres.

The Deed indicates that the Petitioner purchased the entire SE1/4NW1/4 of Section 10, Township 4 North, Range 5 West, B.M. Accordingly, after correcting for the 77 acres incorrectly added to the place of use for the parent right, Water Right No. 63-33801 should be apportioned 0.72 cfs for irrigation of the full 36 acres licensed under the parent right. In addition, it appears

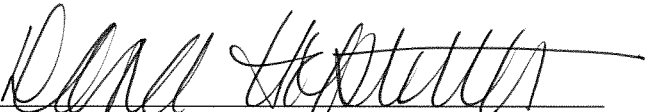
that the transfer incorrectly authorized only 26 acres of irrigation, and not the full 36 acres licensed in the SE1/4NW1/4 of Section 10, Township 4 North, Range 5 West, B.M.

III. Conclusion.

For the foregoing reasons, the Transfer should be corrected by apportioning 0.72 cfs for irrigation of 36 acres to Water Right No. 63-33801.

DATED this 23rd day of September, 2013.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter, for the firm
Attorney for Obendorf Malheur Farms, LLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of September, 2013, I caused a true copy of the foregoing **PETITION FOR RECONSIDERATION** to be served by the method(s) indicated on the following:

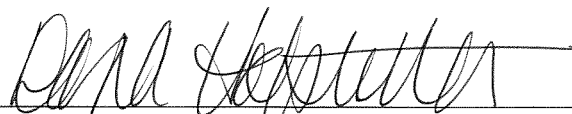
Original to:

Director
Idaho Department of Water Resources
The Idaho Water Center
P.O. Box 83720
Boise, Idaho 83720-0098
X U.S. Mail ☐ Fed Ex ☐ Hand X Fax

Copies to:

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