



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

August 29, 2013

DON KERBY
19315 KERBY LN
LENORE ID 83541-6138

RE: License No. 85-15341

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 208-287-4916.

Sincerely,

For

Craig L. Saxton

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 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.

85-15341

**DON KERBY
19315 KERBY LN
LENORE ID 83541-6138**



**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. 85-15341

Priority: September 20, 2000

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 8.6 AF

It is hereby certified that DON KERBY
19315 KERBY LN
LENORE ID 83541-6138 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated September 20, 2000; and has
submitted Proof of Beneficial Use on August 08, 2001. An examination confirms that 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	0.02 CFS	0.6 AF
IRRIGATION	02/15 to 11/30	0.04 CFS	8.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE1/4NW1/4 Sec. 35, Twp 37N, Rge 03W, B.M. NEZ PERCE County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE	NW	SW	SE	Totals
37N 03W 35	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	
		X			

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE	NW	SW	SE	Totals
37N 03W 35	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	
		2.0			2.0

Total Acres: 2

CONDITIONS OF APPROVAL

1. The issuance of this right does not grant any right-of-way or easement across the land of another.
2. Domestic use is for 1 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 85-15341

3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

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 29th day of August, 2013.

Fo' 
GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Water Right License

85-15341

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.

03W



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

0 0.025 0.05 0.1 Miles



State of Idaho
Department of Water Resources

Attachment To Water Right License 85-15341

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.

03W



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

0 0.03 0.06 0.12 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 85-15341

Exam Date: 4/9/2012

1. Current Owner: DON KERBY
19315 KERBY LN
LENORE ID 83541-6138
(208)746-9891
Email: dkerby@westernapp.com

2. Accompanied by: Not accompanied. This was an In-Office field examination (IDAPA37.03.02.035r). Additional information was obtained via phone and email from Don Kerby.

3. SOURCE**TRIBUTARY**

GROUND WATER

B. OVERLAP REVIEW

1. **Other water rights with the same place of use:** None. 85-15326 is for Domestic and Irrigation for Cherrylane Ranches (located to the NE), and 85-2173 and 85-15644 do not overlap.

2. **Other water rights with the same point of diversion:** 85-15326 (he has a 2 inch buried PVC line off of the New Well running to his property where his house, yard, and pasture are located (the POU).

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER NE1/4NW1/4 Sec. 35, Twp 37N, Rge 03W, B.M. NEZ PERCE County

Method of Determination: 2011 ArcMap Imagery, and Don Kerby confirmed.

2.

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
37N	03W	35					X												

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	
37N	03W	35					2.0												2.0

Total Acres: 2

Method of Determination: 2011 ArcMap Imagery, and Don Kerby confirmed.

3. ☒ Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- ☒ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
- ☒ Aerial Photo Attached (required for irrigation of 10+ acres).
- ☐ Photo of Diversion and System Attached (This is an in-office field examination, so no on-site pictures taken). No pictures were in the file for decreed water right 85-15326).

4.

Well or Diversion**ID No.*****Motor Make****Hp****Motor Serial No.****Pump Make****Pump Serial No. or Discharge Size**

New Well

submersible

unknown

unknown

2 inch buried PVC off of New Well

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement**Equipment****Type****Make****Model No.****Serial No.****Size****Calib. Date**

None

2. Measurements:

This was an In-Office field examination, so no physical measurement was collected. Mr. Kerby collected a sample, and said his system ran at 60 gpm X 0.00223 = 0.13 cfs

Pipe Conversion for a 2 inch PVC = 0.11 cfs

Nozzle Conversion, from information Mr. Kerby gave, via a phone conversation:

(4) 3/8 inch rainbird nozzles run at one time at 35 psi = 0.22 cfs (using the U of I nozzle conversion sheet)

Theoretical: None, due to the Hp and static being Unknown.

IDWR standard for Domestic internal use only (external use is covered under the Irrigation component) = 0.02 cfs

Irrigation: 2.0 acres X 0.03 cfs (for acreage less than or equal to 5 acres) = 0.06 cfs

Permit for Irrigation is = 0.04 cfs

RECOMMEND

Domestic 1 home, internal use only = 0.02 cfs

Irrigation 2.0 acres= 0.04 cfs as permitted

Total Diversion Rate= 0.04 cfs as permitted

E. FLOW CALCULATIONS

Measured Method: No additional measurement.

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (2.0 \text{ Acres Irrigated}) \times (4.0 \text{ Irrigation Requirement}) = 8.0 \text{ af}$$

$$V_{D.R.} = [.04 \text{ Diversion Rate (cfs)}] \times (289 \text{ Days in Irrigation season}) \times 1.9835 = 22.9 \text{ af}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 8.0 \text{ af}$$

2. Volume Calculations for Domestic:

IDWR Standard for Domestic internal use only (external use covered under irrigation component) = 0.6 af

RECOMMEND:

Irrigation	8.0 af
Domestic	0.6 af
Total Annual Volume	8.6 af

G. NARRATIVE/REMARKS/COMMENTS

This is an In-Office Examination which was completed, due to sufficient information submitted by the permit holder (IDAPA37.03.02.035r). The system consists of an interconnected system involving 2 wells (a new well and an old well), a spring, and a 30,000 gallon concrete cistern (reservoir), with a 2 inch buried PVC line branching off of the new well to supply water for water right 85-15341. The entire system is located on the Cherrylane Ranches, Inc. land. From the new well to the reservoir is a buried 4 inch PVC line going and returning back to the system. At the new well, there is a 1 Hp centrifugal pump for the sprinklers in the yard and pasture for water right 85-15341, which normally runs at 35 psi, but can boost it to 60 psi with 4 standard 3/8 inch rainbirds running at one time. All of these sources were in place prior to Mr. Kerby building the new home. What Mr. Kerby did was to tap into the existing line near the new (deep) well and ran a buried 2 inch PVC line to the home site for his domestic and irrigation of 2 acres of landscape, garden and pasture for water right 85-15341. Domestic use is for internal use only, since the external use is covered under the irrigation component. The new well was drilled around 1983, is an 8 inch casing, 200 ft deep, with unknown Hp and static level. The driller is unknown since it was drilled originally as an exploratory well when BPA and the Nez Perce Tribe was looking for a source for the hatchery. Water is pumped 200 ft up the hill to the 30,000 gallon concrete cistern which then supplies irrigation and domestic water to Mr. Kerby's house and pasture under water right 85-15341, and under water right 85-15326 it supplies his sisters (Anderson) house and yard, and his mother's house and yard, plus several acres of farmstead and pasture that belongs to Cherrylane Ranches, Inc. Peak irrigation for all irrigation areas often exceed what the pump will supply, so the cistern storage is important. There is a written agreement between Cherrylane Ranches, Inc., of which Mr. Kerby and his sister (Anderson) and mom share the existing well (they pay \$15/month to Cherrylane Ranch Inc. for water). Irrigation for 85-15326 for the yard consists of pop-up underground sprinklers and drip system, with 5 zones. Irrigation use for the pasture consists of 3 zones, a total of 8 rainbirds, various drip lines, and 2 large wheeled rainbirds (3/8 inch nozzles).

Have conditions of permit approval been met? ☒ Yes ☐ No

H. RECOMMENDATIONS

1. Recommended Amounts

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.020 CFS	0.60 AF
IRRIGATION	02/15 to 11/30	0.040 CFS	8.00 AF
	<u>Totals:</u>	0.040 CFS	8.60 AF

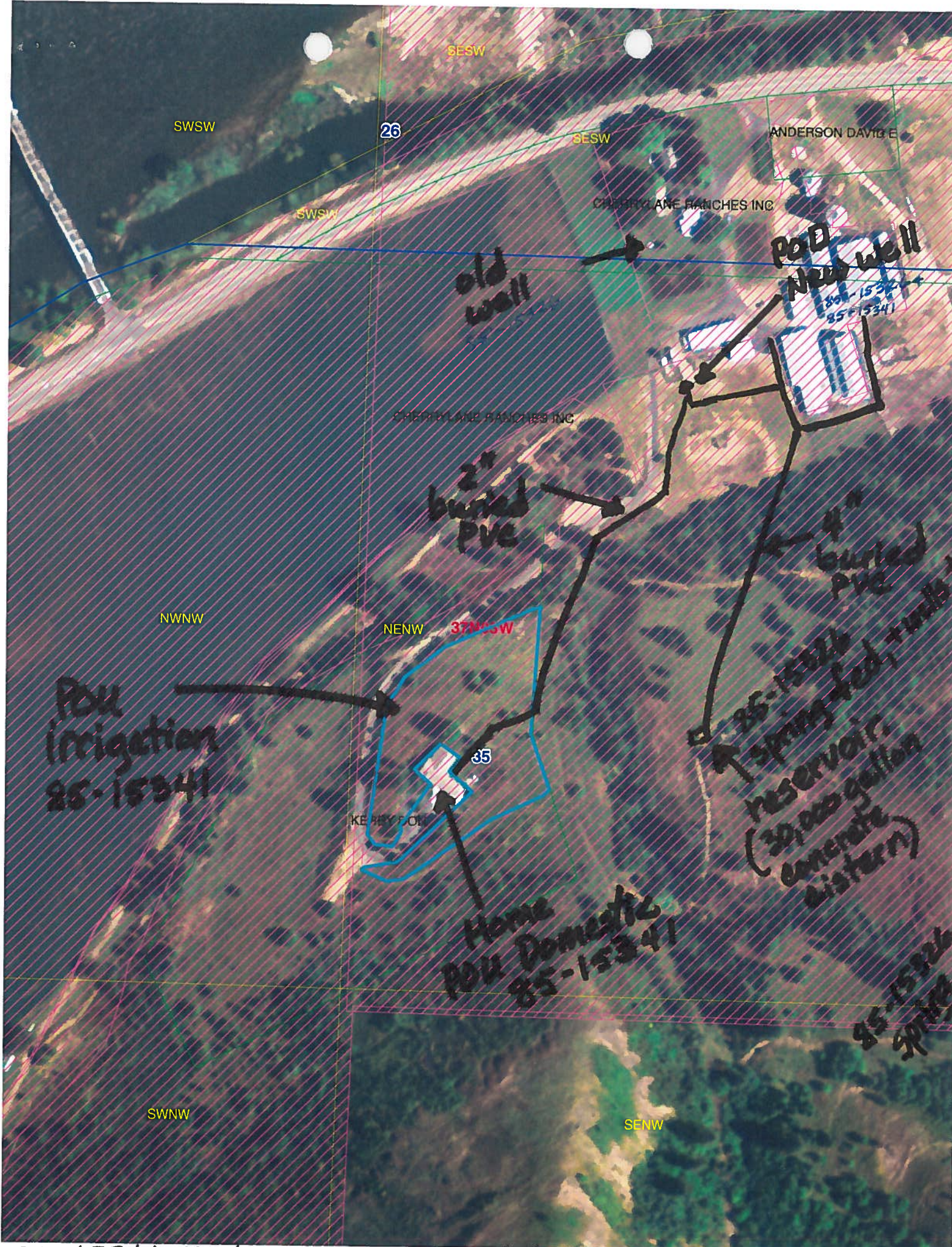
2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATION

Field Examiner's Name Judy Hemminger Date: 8/28/2013



SESW

SWSW

26

SESW

ANDERSON DAVID E

SWSW

CHERRY LAKE RANCHES INC

old well

pad New well
85-15326
85-15341

CHERRY LAKE RANCHES INC

2" buried PVC

NWNW

NENW

37NWSW

35

KEELEY FOL

Home
POU Domestic
85-15341

4" buried PVC
85-15326
spring-fed, + wells
reservoir
(30,000 gallon
concrete
cistern)

85-15326
spring

SWNW

SESW

Hemenway, Sandy

From: Don Kerby [dkerby@westernapp.com]
Sent: Friday, April 06, 2012 10:40 AM
To: Hemenway, Sandy
Subject: RE: Water Right 85-15341, for your domestic use and irrigation of 2 acres (Licensing review)
Attachments: Kerby Water.jpg

Hello,

I will try and answer your questions. Your map is pretty poor so I am sending you my own – I think you can locate what I have on your map without any problem and you will have a better copy. I have answered each question below in red. Somebody already did this several years ago – came out and measured my water output -- things are not significantly different.

From: Hemenway, Sandy [mailto:Sandy.Hemenway@idwr.idaho.gov]
Sent: Thursday, April 05, 2012 10:59 AM
To: dkerby@westernapp.com
Cc: Hemenway, Sandy
Subject: Water Right 85-15341, for your domestic use and irrigation of 2 acres (Licensing review)

<<DOC001.pdf>>

Hi Don,

I am currently reviewing your water right permit 85-15341, in order to complete the licensing process for your domestic (one home) and irrigation 2 acres for 19315 Kerby Ln. Lenore, ID. In order to complete the process, I have a few questions:

- (1) On the map attached, please print off a copy and (a) mark and label the location of the well that is your point of diversion, (b) outline the 2 acres that are being irrigated, (3) draw the location and indicate the size of the pipe going from the well to the place of use.

Aerial Photo attached. Blue outline is my irrigated area. Purple line is buried 2" PVC line. Red line is 4" buried line. Other key things are noted.

- (2) Describe in detail how the 2 acres are irrigated: (a) Describe the type and size of the rainbirds or nozzles that are on the system, and number of zones. (b) Describe how many nozzles run at one time. (c) What pressure (psi) does the water system usually runs at. (d) Do you have a pressure tank(s), and if so how many, and what size. (e) What size discharge is off the well on your system. (f) What size and type of buried pipe makes up the distribution system for your irrigation system.

I have a 2" buried PVC line coming from the well to my house that provides water for domestic and irrigation use. Water arrives at my homesite at about 35PSI via gravity flow from a big cistern. To irrigate, I use a 1HP centrifugal pump for sprinklers and can boost the pressure to about 60PSI with 4 standard rainbirds. My yard area is irrigated with pop up underground sprinklers or drip irrigation there are 5 zones in the yard and 3 zones in the pasture. The pasture area is irrigated either with small rain birds (8 heads total) driplines (various) or two large wheeled rain birds (3/8 nozzles) I have also on occasion used a small Kifco T130 Traveller in my pasture, but the pressure is marginal for that.

(3) Checking your other water right 85-15326 (a well drilled in 1950, another well located to the south about 200 ft drilled in 1987, and a spring located about ½ mile to the south), it stated that this system was for domestic 3 houses. Are any of these houses claimed on this water right, the same house that you are claiming under water right 85-15341? **The water system serves 3 households and irrigates the associated farmstead as well, but my water right claims are separate from the others.**

(4) In the notes for water right 85-15326, it states that the 2 wells and the spring are interconnected in the system. Is the distribution line going to your domestic and irrigation system under water right 85-15341 off of the combined system of 85-15326, or directly off of just the 300 ft deep well that was drilled in 1987? **The two wells, spring and cistern are all connected and all on Cherrylane Ranches, Inc, Land. All of this was in place prior to my building a new home. I just tapped into the existing line near the deep well and ran 2" PVC to my homesite.**

(5) Do you know how many gallons per minute the 300 ft well is producing independently? When and by whom was a pump test completed by? **This well was drilled around 1983 as a potential water source for the Nez Perce Tribal salmon hatchery and I believe that it will produce 600+ GPM. I do not recall who did the pumping and testing – I remember that they drilled 3 or 4 other wells on Cherrylane Ranch that produce even more water volume than this one.** *9/15/2000 Memo states: 1987. SA 4/9/2012*

(6) What is the type/brand of pump, serial number (if known), horsepower of the pump, static level, and psi? **I don't know the answer to this. I believe that the existing pump is a 60 GPM pump. It pumps water 200 feet up a hill to a 30,000 gallon concrete cistern which in turn supplies irrigation and domestic water to my house and pasture, my sister's (Anderson) house and yard, my mothers house and yard, and several acres of farmstead and pasture that belongs to Cherrylane Ranches, Inc. Peak irrigation for all irrigated areas often exceeds what the pump will supply, so the cistern storage is important.**

(7) On the application for permit, you stated that there is a shared water agreement to use the well for your domestic use. Looking at the file for 85-15326, it stated that you are the vice president of the Cherrylane Ranches, is that still correct? Is there something in writing on the agreement for sharing the well? **My parents are both deceased so I am now President of the Corporation. Yes, there is a written agreement and I included that in my original application. Cherrylane Ranches, Inc maintains the system and my sister and I pay \$15/mo to Cherrylane Ranch for water.**

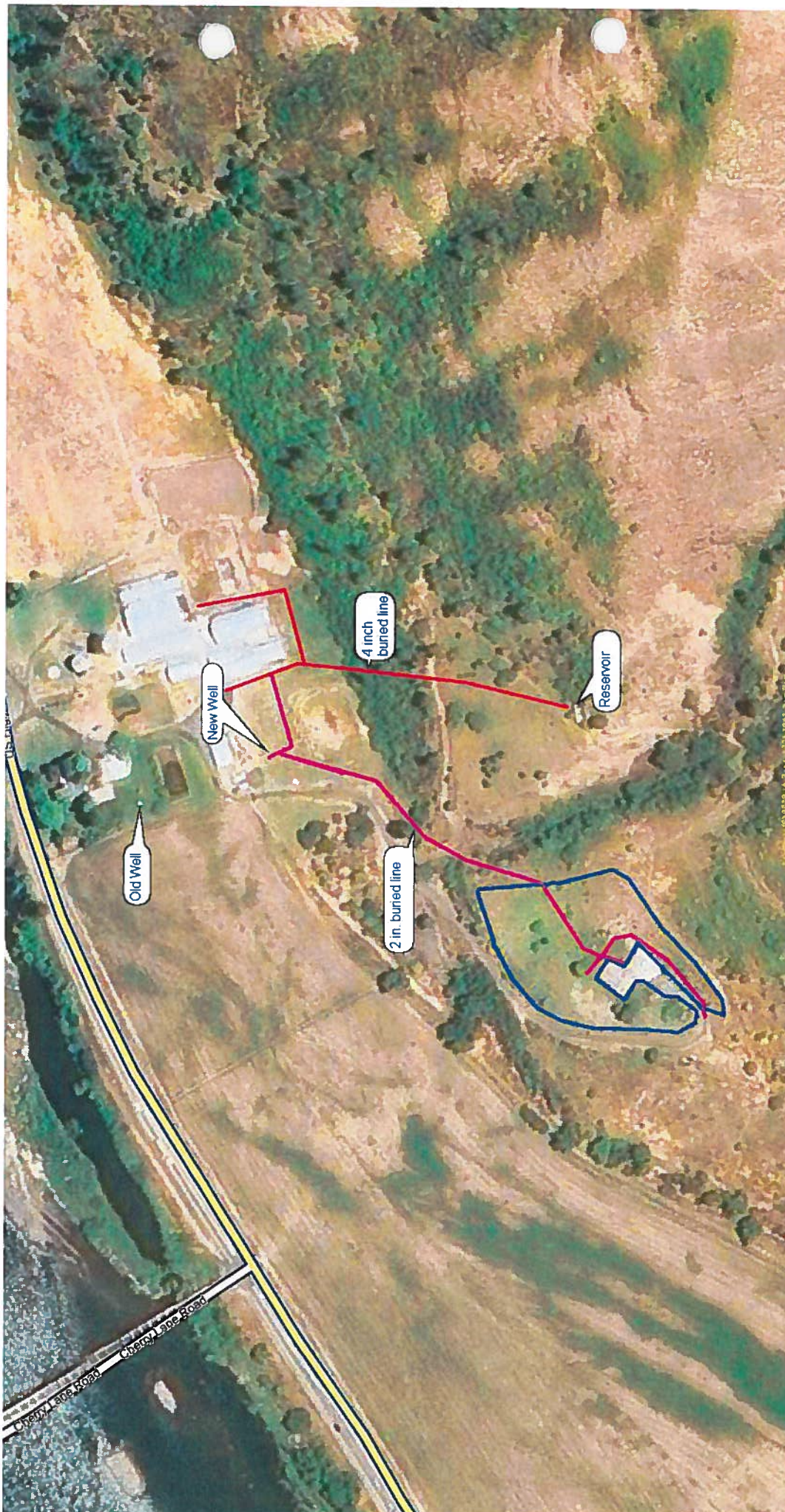
I know these are a lot of questions, and ***if you would rather wait to answer them via a phone call on Monday, that would be fine.*** What I really do need though would be for you to complete items listed under number 1 above, scan and email the map back to me if you can.

Thank you in advance for all your time, and I look forward to talking to you.

Sincerely,

Sandy Hemenway

Sr. Water Resource Agent
IDWR/State Office
PO Box 83720 or 322 E. Front St.
Boise, ID 83720-0098
OFFICE: (208) 287-4920 (Monday thru Thursday)
CELL: (208) 761-0280



Map
Submitted
by:
Don Kerby
4/6/2012

25-15341