

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: May 2, 2012

RE: Graham-Gilbert Ditch, Splits from 63-144C & Related Matters

This memo summarizes several records for irrigation, aesthetic/wildlife ponds and mitigation for Eagle Island subdivisions. All the records relate to Boise River water and shallow ground water associated with the Graham-Gilbert Ditch.

Before 2005

63-144C authorized 0.76 cfs for 25 acres irrigation from the ditch.

2005

Westover filed Application 63-32109 for a shallow well and several shallow ground water ponds for irrigation and non-irrigation uses. Ownership subsequently changed to Nagy Springcreek (Nagy). Mitigation for the new uses was to be covered by leaving 0.43 cfs/14.1 acres portion of 63-144C undiverted in the Boise River.

This technique would allow IDWR to change that amount of retired irrigation use to mitigation non-use in the old right based on consent of the right holder. This became codified under IC. § 42-223(10), no forfeiture for non-use due to mitigation for another approval issued by IDWR. Later in 2006, this method resulted in standard condition #170 applied to a new approval, typically an application for permit.

However, IDWR overlooked updating 63-144C upon approval of the Nagy application¹. Approval came in the form of two permits: 63-32125 for the well, 63-32126 for the ponds. At this point, 63-144C should have covered 0.33 cfs/10.9 acre irrigation and 0.43 cfs/0 acres mitigation.

2007-2008

Due to that error, 63-144C was decreed 2/2007 as a full irrigation right matching pre-2005 data.

¹ Database comment from 63-32917 on 2/6/2011: Application 63-32109 was filed in early 2005. The application proposed a shallow well and 3 shallow ground water ponds on Eagle Island upstream from Star. The site had been irrigated with the 1865 Graham-Gilbert right 63-144C, Boise River. The application was approved under splits 63-32125 (well) and 63-32126 (ponds), mitigated by leaving most of right 63-144C in the river (leave 0.43 cfs for 14.1 acres in river). The senior right was later split, resulting in 63-32917 as the mitigation right. This was perhaps the first use of what later became standard condition #170 (added to database 10/5/2005). However, the department did not change the senior right to list mitigation as a use. Right 63-32917 was decreed for irrigation use in 2007. The department probably cannot change that right without some other action at this point - petition the Court?

Late that year, Coast 2 Coast (C2C) filed Transfer 73959 for 63-144A and 63-144C. The transfer was approved mid 2008 as follows:

- 63-144A, no split:
 - Change part to non-irrigation to mitigate a new pond(s) authorized in companion filing 63-32229, leave balance for irrigation, all in C2C Subdivision;
 - Non-irrigation portion can be diverted to the pond(s) to cover evaporation losses.
- 63-144C was split:
 - 63-32917, leave 0.44 cfs/14.6 acres irrigation at Westover Subdivision;
 - 63-32918, move 0.32 cfs/10.4 acres irrigation to C2C Subdivision;
 - Total of splits equaled pre-2005 total.

2012

Splits from 63-144C apparently can allow 0.76 cfs/25 acres irrigation between both subdivisions. No part of original right 63-144C would be left un-diverted in the river.

Uses under Nagy 63-32125 and 63-32126 are out of priority if used without mitigation. Should those uses be curtailed now? I do not think so - the mitigation error is IDWR's. Decree 63-144C and Transfer 73959 would not have perpetuated the error if the old right had been updated by IDWR upon Nagy approvals in 2005.

While injury to senior rights remains a concern, the impact from a shallow well and several small ponds at Westover Subdivision is probably not immediately detectable at the river. Allow current uses to continue while a longer term solution is developed. This should probably remain an internal problem at IDWR until a viable solution becomes available.

Summary Table

Allow the following uses based on this explanation.

RIGHT NUMBER	USE	CFS	AF STORAGE	LOCATION
63-144A	irrigation & aesthetic	2.03	144.3	Coast 2 Coast Subd, with ponds
63-32125	irrigation	0.23	n/a	Westover Subd
63-32126	aesthetic/wildlife	n/a	20.4	Westover Subd, with ponds
63-32229	aesthetic	n/a	690.0	Coast 2 Coast, with ponds
63-32917	irrigation	0.44	n/a	Westover Subd
63-32918	irrigation	0.32	n/a	Coast 2 Coast Subd

MAPS

See attached maps.

Coast 2 Coast Subd	63-144A 63-32229 63-32918	see map 63-32918
Westover Subd	63-32125 63-32126 63-32917	see map 63-32917



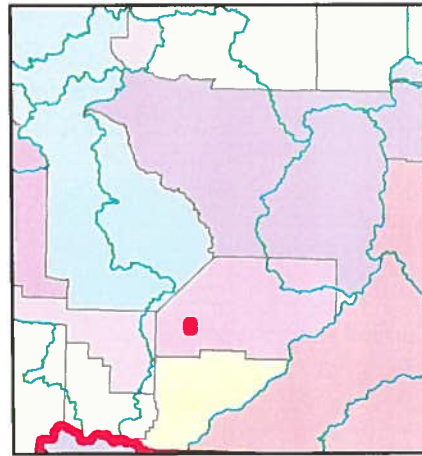
Idaho Department of Water Resources

Water Right
63-32917
(IRRIGATION)

Westover Subd
R01E

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

*● SENE actually just
small piece by the line*



Ada County
IDWR Basin 63

Prepared by Lester, Steve

2009 Aerial Photography



Owner: Nagy Springcreek, LLC
NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.



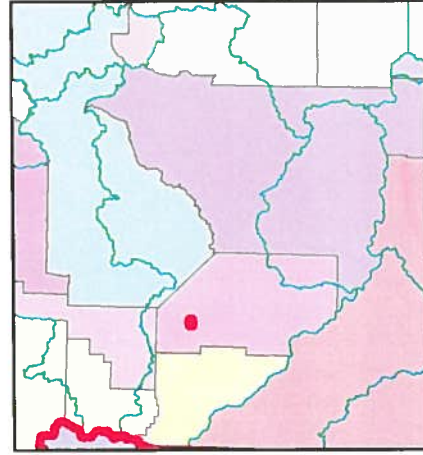
Idaho Department of Water Resources

COAST 2 COAST SUBD.

Water Right
63-32918
(IRRIGATION)

R01E

- Point of Diversion
- Place of Use
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