

MEMO

TO: File 47-8406

FROM: CPalmer

DATE: March 29, 2012

RE: Licensing Review Memo + 2 attachments (overlap analysis + Sandy

Hemenway license eval. of
47-8389A)

Timeline:

Application Received: December 12, 1996

Permit Issued: March 12, 1997

Proof of Beneficial Use: February 19, 2002

Field Examination: August 19, 2004

POU: Place of use consists of the city's boundary. In 2011, Allen Merritt updated the large POU for all city of Twin Falls rights.

Point of Diversion: There are 4 wells that are associated with this right. In addition right 47-8389A diverts from those wells.

Overlap Analysis of PDs: Rights 47-8389A, 47-8406, and 47-8410 were filed to cover 4 PDs that are interconnected. The field examiner found that all four wells can produce 13.65 cfs. Right 47-8389A was licensed with a rate of 7.0 cfs and 47-8410 had a combined limit with right 47-8389A of a total maximum diversion rate of 7.0 cfs. Right 47-8410 has been relinquished as it did not add any extra benefit above 47-8389A. Right 47-8406 will be licensed for the full permitted rate of 6.0 cfs.

Notification of Interested Parties: During the licensure of 47-8389A, the Department notified the parties that were involved in the protest of the permit. I used that same mailing list to notify them of the amendment of this permit. I received correspondence from the city's representative saying they would like to submit more information so 47-8410 did not become voided but we later received the signed amendment and relinquishment forms from the city. This right will be licensed as amended.

Past Department Policy and Practice in Regard to Municipal Rights: This right will be licensed based solely on the installed capacity of the 4 wells, but will be limited to the permitted diversion rate. An analysis of beneficial use is not necessary as the timeline of the permit places the development of this right in a gray area in our practices. I have, however, attached a POU overlap analysis for informational purposes.

Amendment?: Yes, all 4 PDs have been added to this right through the amendment.

Note that I have attached Sandy Hemenway's 6/29/09 memo regarding her analysis of licensing 47-8389A

ATTACHMENT 1

POU OVERLAP ANALYSIS

Basin	Sequence	Suffix	Process	Basis	Priority Date	Diversion Rate	Source List	Water Use List	Current Owner
36	2603	A	Water Right	Decreed	4/17/1964	45.00	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
36	2646		Water Right	Decreed	3/29/1966	7.47	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
47	2361		Water Right	Decreed	12/11/1961	2.33	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
47	2373		Water Right	Decreed	4/24/1963	6.25	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
47	8389	A	Water Right	License	10/31/1995	7.00	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
47	8406		Water Right	License	12/12/1996	<u>6.00</u>	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
Total						74.05			
36	16592		Water Application		3/11/2008	41.90	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
47	8389	B	Water Application		10/31/1995	<u>14.00</u>	GROUND WATER	MUNICIPAL	CITY OF TWIN FALLS
						55.90			

MEMO

Attachment 2

FROM: Sandy Hemenway

DATE: 6/29/2009

TO: File 47-8389A

SUBJECT: Changes from one well to 4, and why licensed for 7.0 cfs

A letter dated 5/20/1997 from Attorney Wonderlich, with copies from protestants, stating they did not mind combining 47-8410 and 47-8389A, as long as they did not exceed a combined total of 7.0 cfs as in the 10/28/1996 Order.

In a 3/22/2004 Memo written by Allen Merritt, "the original well drilled was only able to provide about 3.9 cfs but had dwindled to 1.0 cfs. Twin Falls wanted to divert a portion of the permitted right out of the well drilled under 47-8410 for 4.0 cfs (This well has a capacity of maybe 6.0 cfs, and this permit is limited to 7.0 cfs when combined with 47-8389A)." Allen discussed this issue with Shelly Keen and they concluded "that the City needed to get the original protestants to agree to allow use of more than one well and then petition to get the condition waived that limits use of only one well. If this is done, then the City would need to show that both well #3 and well #4 were developed prior to 9/4/2001 when proof was submitted for 47-8389A. If all this falls into place then the field exam for 47-8389A could include both wells and use recognized under a licensing amendment." (Proof of Beneficial Use was submitted 8/29/2001; Field Exams were conducted on wells # 1 - 4, on 8/19/2004 confirming location, and capacity of the system.)

An email dated 9/13/2005 from Shelley Keen to Jackie Wakefield and Allen Merritt, titled Draft Amendments for City Permits, it stated the following: "Jackie, I have attached draft amendment forms for Permits 47-8389A and 47-8406. The drafts show 47-8389A at 7.00 cfs with all four points of diversion and 47-8406 at 6.00 cfs with all four points of diversion. I did not include an amendment form for Permit 47-8410 because the other two permits, if amended in accordance with the drafts, total 13.0 cfs, which was the maximum amount authorized to be developed in connection with all three permits. (Permit 47-8389A, and 47-8410 are limited to a combined total of 7.0 cfs.) As we discussed on the phone, IDWR will not issue water right licenses that match these draft amendments without written concurrence from the original protestants and intervenors in the matter of Application 47-8389A. Please call or email if you have questions or if you want to discuss other alternatives."

On 5/6/2009, the file was reviewed with Pam Skaggs, and it was determined that a copy of the letter and Application for Amendment would be mailed to all protestants and intervenors in the matter of Application 47-8389A. A second mailing was sent on 5/28/2008 for those resulting in a "mail-return." The Application for Amendment for 47-8389A included all four well, and a diversion rate of 7.0 cfs. To date, no objections or appeals have been submitted in regards to the Application for Amendment. For this reason, it was determined to proceed with the Licensing process for 47-8389A. (Fees and the signed Application for Amendment were received by IDWR on 5/20/2009).

47-8389 City of Twin Falls, Review for Licensing:

Reviewed By: Sandy Hemenway

Date: 6/29/2009

Background:

- 6/29/2009 No Responses from any parties, in reference to apposing the Application of Amendment.
- 6/23/2009 Added comment: On 8/19/04 F.E. conducted by Allen Merritt, confirmed location of wells # 1-4, & totalizing measuring devices on wells.
- 5/28/2009 Copy of Letter and Application of Amendment resent to Fritz Wonderlich and Charles Brockway
due to "mail-return." Pam Skaggs said to allow at least 2 - 3 weeks for response.
Location for Jeffrey Warr was undetermined (last address, phone #, fax # belong to a different party for >7 years).
No results were found in DEX for Jeffrey Warr in Twin Falls or the surrounding areas.
- 5/20/2009 IDWR received the fees, and the signed Application for Amendment for 47-8389A (including 4 wells, and diversion rate 7.0 cfs).
- 5/6/2009 Letters sent to all parties involved and attorneys, with copy of Application of Amendment
To: City of Twin Falls; cc: Jacqueline Wakefield, John A. Rosholt, Tom McCauley, Mike Trabert, Fritz Wonderlich, Jeffrey Warr,
and Charles Brockway.
- 5/6/2009 Meeting with Pam Skaggs, reviewing the file. Pam suggested mailing letter and Application of Amendment to all parties involved.
- 5/20/1997 Letter from Attny. Wonderlich w/ copies from protestants, stating they didn't mind combining 47-8410 and 47-8389A, as
long as they didn't exceed a combined total of 7.0 cfs as in the 10/28/1996 Order. (letter in 47-8410)
- 11/29/2005 Letter: The College of Southern Idaho withdraws 1996 protest to 47-8389A
Application for Amendment found in file, but not a signed and dated copy
- 9/13/2005 email from Shelley Keen to Jwakefield ad Allen Merritt: draft amendments for 47-8389A (7.0 cfs), and 47-8406 at 6.00 cfs w/4-PODs;
- 3/22/2004 Memo from Allen Merritt (reasoning for the amendment was due to "proof already submitted; only 1 well to be used;")
- 3/25/2003 Letter from IDWR, Corey Skinner for Twin Falls to initiate a licensing field exam for permits #47-8389A and 47-8410
- 8/29/2001 Proof of Beneficial Use (1 well, total 6.7 cfs) **Part A** (met deadline, which was 9/3/2001)
- 10/28/1996 Permit
- 10/28/1996 Preliminary ORDER approved splitting of the application as: 47-8389A (7.0cfs) and 47-8389B (14.0 cfs)
Part A was approved by all Protestants, allowing for the Order and splitting into Part A, and Part B.
Part B is still protested and will remain on hold
- 10/4/1996 Memo from Allen Merritt (review and recommendation); due to agreements w/protestants for partial withdrawal (approving Part A),
recommending 47-8389A for 7.0 cfs be recommended as Ordered.
- 7/26/96 & 8/27/1996 The department conducted conferences in the contested matter resulting in parties reaching an
agreement concerning the development of 7.0 cfs of the 21.0 cfs applied for by the applicant.
- 7/31/1996 Order allowing Tom McCauley, and Robert and Kathy Meyers to intervene (they own fish hatcheries that would
be affected by proposed wells.
- 10/31/1995 Application for Permit

10/28/1996 Preliminary Order split 47-8389 into 47-8389A (7.0 cfs), and 47-8389B (14.0 cfs)

Part A Status: Active Draft License

8/19/2004 Field Exam recommended 3.82 cfs, and recommended Amendments (change P.D. as reflected in report)
Totalizer = 2.80 cfs
Polysonic = 2.59 - 2.94 cfs
Installed meter = 2.73 cfs
2 years of data from Lance bates = 3.82 cfs shown for peak capacity (notes say system fluctuates)
8/29/2001 Proof of Beneficial Use submitted
10/28/1996 Permit No. 47-8389A signed and approved
10/28/1996 ORDER--Application for Permit No. 47-8389A (7.0 cfs) is Approved per Preliminary Order.
Purpose: Add well to existing City water system. Limit of 7.0 cfs, and only for construction of one well
POU: Within the service area of Twin Falls (met deadline, which was 9/3/2001)
POU Overlap 36-2603A, 36-2646, 47-2361, 47-2173, 47-11815, 47-11817, 47-8406, 47-8410, 47-2352,
Well Drillers Report: 4/27/1997 Municipal

Part B Status: Active wrApplication (no "Basis")----4/2/09 Pam Skaggs said to leave status "Active."

3/25/2009 Added comment: "under Protest" to database (there is no deadline date for the Protest)
11/16/2005 - 11/23/2005 Affidavit of Publication
10/28/1996 Preliminary Order approved split for 47-8389A (7.0 cfs) to be approved and developed, not 47-8389B (14.0 cfs)
7/26/96 & 8/27/1996 Department conducted conferences in the contested matter resulting in parties reaching an agreement concerning development of 7.0 cfs (Part A) of the 21.0 cfs applied for by the applicant.
Part B still protested.

Comment added to Part A and Part B, "10/26/1996 split by Order"

Unable to add comment to Parent.

HAVE EMALÉE MAKE 2 FOLDERS, PART A AND PART B---4/6 Pam said Darla/Emalee decided not to split up the files.

<u>Priority</u>	<u>WR#</u>	<u>POD/CFS</u>	<u>Permit</u>	<u>Conditions</u>	<u>Approval from Protestants</u>
10/31/1995	47-8389A	Well #3 (3.82 cfs)	7.0 cfs	Limited to 7.0 cfs; construct 1 well	YES
12/12/1996	47-8406	Well # 1 (2.28 cfs)	6.0 cfs		
		Well #2 (0.86 cfs)			
4/10/1997	47-8410	Well #4 (6.69 cfs)	4.0 cfs	Combined Limit w/47-8389A of 7.0 cfs	YES
		13.65 cfs system capacity		(13.0 cfs is max. amount authorized to be developed w/ all 3 permits)	

4/23/2009 I prepared a cover letter and application for amendment, for licensing purposes to Twin Falls, cc: all previous protestant parties & attny's with \$50 fee due

***4/13/2009, Per Pam Skaggs, 47-8410 appears to have no B/U associated with that water right, since 13.0 cfs used up with 47-8389A and 47-8406, leaving only 0.65 cfs left over. Need to send a letter suggesting that they might want to withdraw 47-8410 permit.

License 47-8389A and 47-8406 as permitted, due to being tied into all 4 PODs, and the 2 WRs combined = 13.0 authorized 2 develop.

9/19/2005 email from Shelley states that an amendment for 47-8410 was not included, due to draft amendments for 47-8389A & 47-8406 totaled 13.0 cfs, which was the maximum amount authorized to be developed in connection with all three permits.

8/16/1999 signed amendment of Permit for 47-8410 including 4 PODs.

Protestants: (copies of signatures in file approving 47-8389A, for 7.0 cfs and 1 well; signatures approving combined 47-8989A & 47-8410, with condition not to exceed a total combined diversion of 7.0 cfs)

CSI

Warr/Fish Hatchery (Myers)

Wonderlich/T.F

Brockway/Twin Falls

Rosholt/Canal Company

McCauley/Little Mac Power