

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 68473

This is to certify that: KING HILL IRRIGATION DISTRICT
 C/O GARDNER "GIB" BROWN, MANAGER
 PO BOX 428
 KING HILL ID 83633
 (208)336-2243

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
37-4112	AJC/Beneficial Use	03/26/1902	300 cfs	N/A	N/A	11,573.0	MALAD RIVER
37-21595	WR/Decreed	04/01/1909	70 cfs	N/A	NA	11,573.0	MALAD RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-4112	NO	NO	NO	YES	NO	NO
37-21595	NO	NO	NO	YES	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
37-4112	37-4112	300 cfs	N/A	N/A	11,573		N/A	N/A	N/A	N/A
37-21595	37-21595	70 cfs	N/A	N/A	11,573		N/A	N/A	N/A	N/A
COMBINED TOTALS		370 cfs	N/A	N/A	11,573		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 3rd day of November, 20 11


 John Westra, Western Regional Manager

SUPPORT DATA

IN FILE # 37-4112

SCANNED

NOV 04 2011

WATER RIGHT NO. 37-4112
As Modified by Transfer No. 68473

In accordance with the approval of Transfer No. 68473, Water Right No. 37-4112 is now described as follows.

Right Holder: KING HILL IRRIGATION DISTRICT
C/O GARDNER "GIB" BROWN, MANAGER
PO BOX 428
KING HILL ID 83633

Priority Date: March 26, 1902

Source: MALAD RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
STOCKWATER	01/01	to 12/31	30.00 CFS
IRRIGATION	03/15	to 11/15	300.00 CFS
			300.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

MALAD RIVER (Rediversion)	L7 (NENE)	Sec. 12 Twp 05S Rge 10E	ELMORE County
MALAD RIVER (Rediversion)	L7 (SWNW)	Sec. 28 Twp 05S Rge 10E	ELMORE County
MALAD RIVER (Rediversion)	L8 (SENE)	Sec. 3 Twp 06S Rge 08E	ELMORE County
MALAD RIVER (Rediversion)	L6 (NWSW)	Sec. 9 Twp 06S Rge 11E	ELMORE County
MALAD RIVER (Rediversion)	L7 (NWSW)	Sec. 12 Twp 06S Rge 12E	TWIN FALLS County
MALAD RIVER (Injection)	L2 (SWSW)	Sec. 27 Twp 06S Rge 13E	GOODING County
MALAD RIVER	NENW	Sec. 35 Twp 06S Rge 13E	GOODING County

CONDITIONS OF APPROVAL

1. Place of use is within the boundary of the King Hill Irrigation District pursuant to Section 43-323, Idaho Code.
2. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

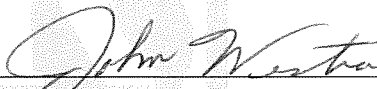
WATER RIGHT NO. 37-4112
As Modified by Transfer No. 68473

CONDITIONS OF APPROVAL

3. Right Nos. 37-4112 and 37-21595 are limited to the irrigation of a combined total of 11573 acres in a single irrigation season.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
7. Point of injection into and points of diversion from the Snake River.
8. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 6/29/2010.
9. The following rights are diverted through points of diversion described above: 37-4112 and 37-21595 .

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 3rd day of November, 20 11



John Westra, Western Regional Manager

WATER RIGHT NO. 37-21595
As Modified by Transfer No. 68473

In accordance with the approval of Transfer No. 68473, Water Right No. 37-21595 is now described as follows.

Right Holder: KING HILL IRRIGATION DISTRICT
C/O GARDNER "GIB" BROWN, MANAGER
PO BOX 428
KING HILL ID 83633

Priority Date: April 01, 1909

Source: MALAD RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/01	to 10/31	70.00 CFS
			70.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

MALAD RIVER (Rediversion)	L7 (NENE)	Sec. 12 Twp 05S	Rge 10E	ELMORE County
MALAD RIVER (Rediversion)	L7 (SWNW)	Sec. 28 Twp 05S	Rge 10E	ELMORE County
MALAD RIVER (Rediversion)	L8 (SENE)	Sec. 3 Twp 06S	Rge 08E	ELMORE County
MALAD RIVER (Rediversion)	L6 (NWSW)	Sec. 9 Twp 06S	Rge 11E	ELMORE County
MALAD RIVER (Rediversion)	L7 (NWSW)	Sec. 12 Twp 06S	Rge 12E	TWIN FALLS County
MALAD RIVER (Injection)	L2 (SWSW)	Sec. 27 Twp 06S	Rge 13E	GOODING County
MALAD RIVER	NENW	Sec. 35 Twp 06S	Rge 13E	GOODING County

CONDITIONS OF APPROVAL

1. Place of use is within the boundary of the King Hill Irrigation District pursuant to Section 43-323, Idaho Code.
2. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

WATER RIGHT NO. 37-21595
As Modified by Transfer No. 68473

CONDITIONS OF APPROVAL

3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
6. Right Nos. 37-4112 and 37-21595 are limited to the irrigation of a combined total of 11573 acres in a single irrigation season.
7. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 6/29/2010.
8. Point of injection into and points of redirection from the Snake River.
9. The following rights are diverted through points of diversion described above: 37-4112 and 37-21595 .

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 3rd day of November, 20 11



John Westra, Western Regional Manager



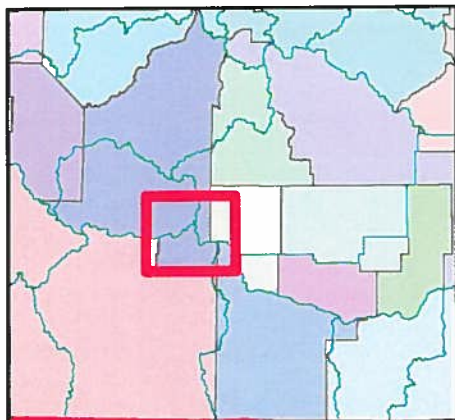
King Hill Irrigation District

Water Rights: 37-4112, 37-21595

Irrigation Service Area Boundary
GIS Place of Use Illustration

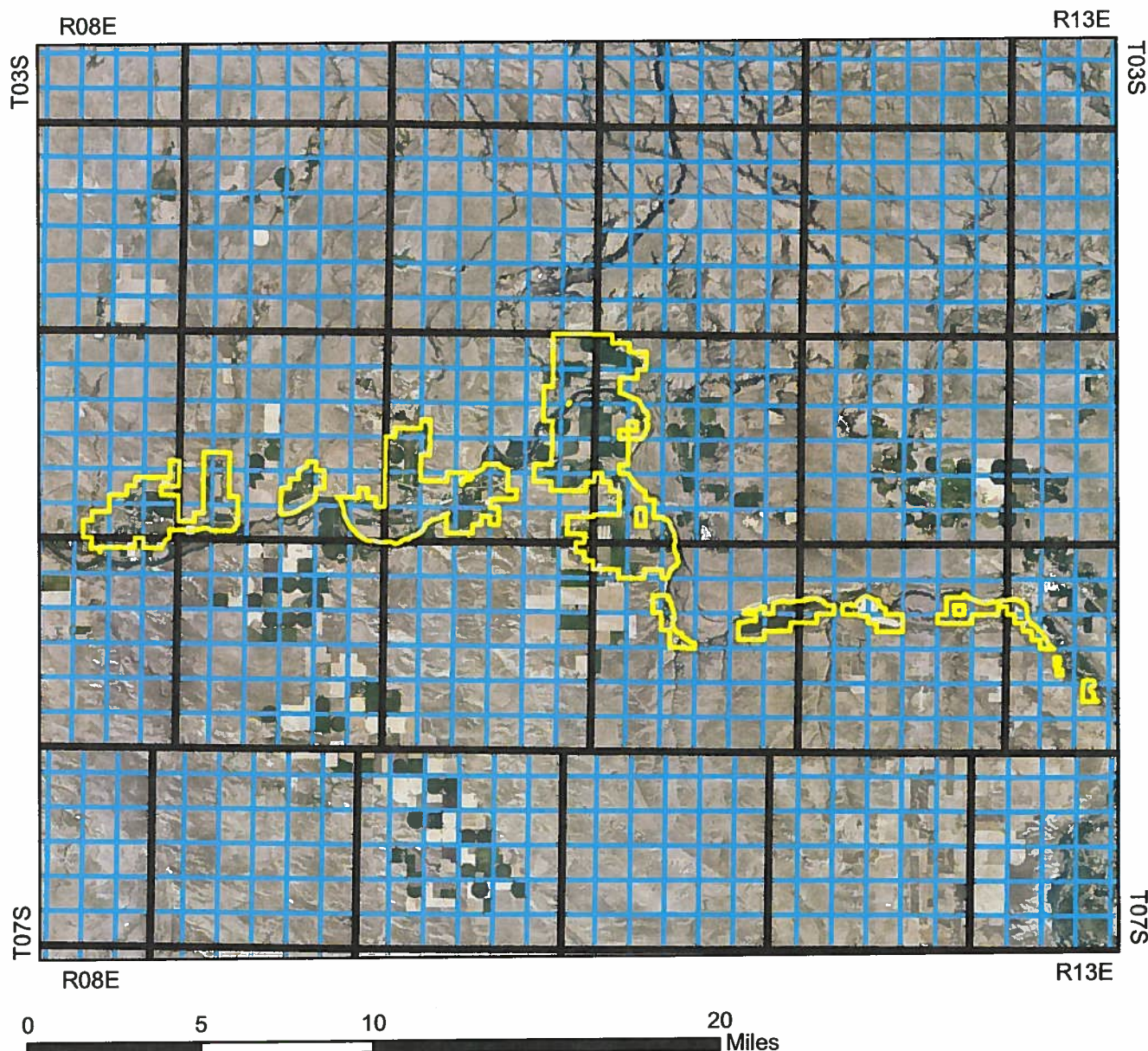
Legend

-  Service Area
-  Townships/Ranges
-  Sections



Elmore, Gooding, Twin Falls Counties
IDWR Basin 37

Prepared by Curtis, Sharla
On October 11, 2011
2009 Aerial Photography





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

November 3, 2011

KING HILL IRRIGATION DISTRICT
C/O GARDNER "GIB" BROWN, MANAGER
PO BOX 428
KING HILL ID 83633

RE: Transfer No.: 68473
Water Right No(s): 37-21595 37-4112

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) 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 the APPLICANT 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.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's homepage on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

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 208-334-2190.

Sincerely,

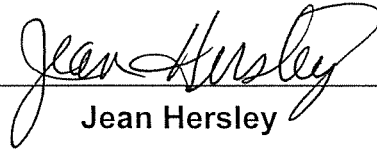

for John Westra
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

KING HILL IRRIGATION DISTRICT
C/O GARDNER "GIB" BROWN, MANAGER
PO BOX 428
KING HILL ID 83633

A handwritten signature in cursive script, reading "Jean Hersley", is written over a horizontal line.

Jean Hersley
Office Specialist II

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.

MEMORANDUM

TO: Transfer No. 68473 File

FROM: Vicky Music

DATE: October 3, 2011

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add a point of diversion [POD] to right nos. 37-4112 and 37-21595 so that a shareholder could use his KHID shares more efficiently.

The proposed new POD is approximately 9 miles west of Glenns Ferry, Idaho, on the north side of the Snake River in Elmore County and northeast of Sparlin Island.

Contact person for the applicant is Gib Brown, KHID Manager.

Deviations from Transfer Policy Standards

Originally, the transfer proposed to split the King Hill Irrigation District [KHID] right 37-4112, and change a portion of it to the City of Glenns Ferry for use at a new water treatment plant. The transfer was filed on the old form in 2000 and was not processed due to the ongoing SRBA. Processing resumed when the SRBA Court issued the partial decree in 2010. However, the agreement between the KHID and the City of Glenns Ferry fell through so no split of the water right will occur.

An amended transfer was solicited from the applicant to reflect the changes made to the right in the SRBA, to add overlapping right 37-21595 to the transfer, add the POD, and to request information from the applicant not required on the old form.

The source of the rights are the Malad River, Basin 37. The rights are diverted from the Malad, rediverted to the Snake and delivered to the KHID POU. The proposed POD will be on the Snake River in Basin 02, but is considered a point of rediversion so the rights will not be changed to a Basin 02 numbered right.

Summary of Information Submitted

Authority to File:

KHID, as the IDWR owner of record for rights 37-4112 and 37-21595, has the authority to file the transfer.

Water Right Validity:

Rights are presumed to be valid because the SRBA Court issued the partial decrees for the rights on June 29, 2010, within the past five year period.

Injury to Other Water Rights:

No injury is expected by adding this new point of rediversion because there is plenty of water in the Snake River and the new point of rediversion is within the KHID service area and on the property of a KHID shareholder.

Enlargement of Use:

There is no enlargement of the rights proposed or expected by simply adding a point of diversion to the rights. In fact, the shareholder intends to convert from flood to sprinkler irrigation to use the water more efficiently, so a water savings will likely occur.

Local Public Interest:

There are no apparent public interest concerns.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Additional Information/Analysis and Discussion

No additional information is needed from the applicant or is additional analysis needed from other programs within IDWR. A letter in the file from KHID confirms that less than 10 cfs will be diverted from the new POD so the transfer will not be advertised statewide.

Watermaster comments will not be solicited because there are no Snake River or Malad River water districts.

Data entry affected the correct record. The partial decree was issued & results were migrated to wr records.

SRBA status was reported above. There are no additional overlapping rights at the existing &/or proposed POD &/or POU.

Mitigation is not required.

The applicant applied to have 37-21595 leased to the Water Bank. The status is an active application. If this application is approved, I will check with Monica Van Bussum regarding a change in status so that the appropriate conditions and notifications are included on the approval.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Condition 046 n/a because new wells are not proposed.