

MEMO

TO: File 34-7585

FROM: CPadilla

DATE: November 8, 2010

RE: Licensing Review Memo

Time Line:

Application for Permit Received: April 23, 1998

Permit Approved: September 14, 1998

Proof of Beneficial Use Received: November 13, 1998

Field Exam Conducted: August 1, 2001

This application was approved despite the moratorium because of pre-1987 development.

Conditioning: Watermaster condition will be added since the GW comingles w/ SW.

Comment	Water Permit Condition Report 34-7585
Inactive-does not carry to license	1. 052 Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
Inactive-does not carry to license	2. 053 The Director retains jurisdiction over this right and may change, add, or remove any requirement as determined to be appropriate.
Carry to license	3. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
Updated to 104. SW is still at the POU.	4. 079 This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
Change to R55 at license	5. 051 Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
Carry to license	6. 065 The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
Confirmed to be in compliance with this condition. Does not carry to license.	7. 074 This right does not authorize the irrigation of land not previously irrigated.
Carry to license	8. 01M After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
Confirmed to be in compliance with this condition. Does not carry to license.	9. 068 This permit does not authorize the construction of any new well or the deepening or enlargement of any existing well.

Overlapping conditions will be added to address POD and POU overlaps.

POU Explanation: I am recommending a different POU than the field examiner's recommendation. The field examiner found 255 acres as permitted but, the difference lies in the legal description. Two decreed groundwater rights, 34-7044 and 34-10562, were decreed for the exact same POU as recommended by the field examiner for 34-7585. However, transfer #4086 was approved 12/30/02 that changed the POU for 34-7044 and 34-10562. I recommend approving this license with the same POU as 34-7044 and 34-10562 in order to avoid the need for a transfer as it is obvious that these three rights should be entirely overlapped.

(see attachments) + see customer visit notes for explanation
POU Overlap Analysis (see attached spreadsheet): There are two groundwater rights and many surface water rights that share the same POU.

PD Summary: Note that 34-7044 and 34-10562 describe the PD as being within the SESE of Sec. 14. The GPS point for this PD is within 30 ft of the QQ line which makes it hard to say for sure which QQ the PD is within as we are told by our GIS people to allow for a 30-50 ft margin of error. To be consistent with the decreed rights, I recommend licensing this right with the PD within the SWSE of Sec. 14. In addition, taxlot data shows that the right holder does not own land within the SWSE of Sec. 14.

Tag #	Location	Rights that Use PD	Uses
A0000482	SESE Sec. 14 8N22E	34-7044, 34-7585, 34-10562	Irrigation

Season of Use: The current season of use is 4/1-10/31. The license will reflect the updated season.

Volume and Diversion Rate: The license is limited to the permitted rate of 0.79 cfs since the system is capable of producing 6.29 cfs. Existing overlapping rights add up to 3.21 cfs so the pump is definitely capable of producing the 4 cfs. This right is supplemental to surface water. Therefore, this right will not get a maximum diversion volume designated to the face of the license. See the conditions for the volumetric limits.

Amendment Needed? YES, the POU will be licensed differently than permitted.

Attachment to licensing memo

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4086
WATER RIGHT NO(S). 34-07044/34-10562

This is to certify that: **TERRENCE V DONAHUE**
CAROL J DONAHUE
STAR RT
MACKAY ID 83251

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 34-07044 : IRRIGATION Priority: 09/19/1973	04/15 to 10/15	3.21 CFS	840.0 AF
Right No. 34-10562 : IRRIGATION Priority: 05/01/1986	04/15 to 10/15	0.20 CFS	73.0 AF
TOTAL:		* 3.21 CFS	* 892.5 AF

SOURCE
GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

SESE , Sec. 14, Township 08N, Range 22E
CUSTER County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08N	22E	14	SWSE 2	SESE 36		38
		23	NENE 23	SENE 33	NESE 6	62
		24	NENW 36	NWNW 27	SWNW 40	155
			NRSW 12	NWSW 40		255
Total number of acres irrigated:						** 255

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 34.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Attachment to
licensing memo

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 34-10562

1998 FEB 24 AM 7:50
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: CAROL J DONAHUE
TERRENCE V DONAHUE
STAR RT
MACKAY ID 83251

SOURCE: GROUNDWATER

QUANTITY: 0.2 CFS

USE OF THIS RIGHT WITH RIGHT NO. 34-07044 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.21 CFS AND A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 892.5 AF.

USE OF THIS RIGHT WITH RIGHT NOS. 34-00583C, 34-00584F,
34-00773, 34-00774, 34-00775, 34-10567, 34-10568 AND 34-07044 IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 11.56 CFS.

PRIORITY DATE: 05/01/1986

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION
42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR
RIGHT.

POINT OF DIVERSION: T08N R22E S14 NWSESE Within CUSTER County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION Irrigation Season 0.2 CFS

PLACE OF USE: IRRIGATION Within CUSTER County
T08N R22E S13 SWSW 17
S14 SWSE 2 SESE 36
S23 NENE 13
S24 NENW 36 NWNW 27 SWNW 40 SENW 23
NESW 21 NWSW 40
255 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 34-07044 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 255 ACRES IN A SINGLE
IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NOS. 34-00583C, 34-00584F,
34-00773, 34-00774, 34-00775, 34-10567, 34-10568 AND 34-07044 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 410 ACRES IN A
SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT
NO. 34-07044 PURSUANT TO SECTION 42-1426, IDAHO CODE.