

MEMO

TO: File 65-13176

FROM: CPadilla

DATE: August 16, 2010

RE: Licensing Review Memo

Time Line:

Application for Permit Received: 2/16/90

Permit Approved: 7/13/90

Proof of Beneficial Use Received: 11/1/93

Field Exam Conducted: 7/6/96

Field Examination Recommendations vs Recommendations in this Memo:

At the field examination conducted on 7/6/95, the field examiner discovered 5 wells altogether on lands owned by Terry Jones. Wells #1 and #2 are located in Section 15 (aka Silverleaf) and are interconnected and used for domestic and stockwater uses. The other 3 wells listed are within Section 12 (aka Sandy Ave). Two of the 3 wells are interconnected and provide domestic and stockwater uses. The third well (pitcher pump) is for domestic use only.

Recommendation by Field Examiner: Split 65-13176 into two parts. One piece will include the two interconnected wells in Sec. 12 for 0.05 cfs and the other piece will be for the pitcher pump in Sec. 12 for 0.07 cfs. Both will have a volume of 8 afa and include 200 cattle each. According to the examiner, the use in Sec. 15 is domestic exempt, so no need to cover the uses with this permit.

Recommendation by AJ staff made 3/4/1998: Split 65-13176 into two parts. One piece will cover the two interconnected wells in Sec. 12 and the other piece will cover the two interconnected wells in Sec. 15. The pitcher pump is already covered by a claim, so do not include it in either license.

Recommendation by CPadilla during license review: I cannot license this right based on the recommendations made by the field examiner. First, the recommendations made by the field examiner were argued by Terry and documented in a memo by AJ staff on 3/4/98 where he states that the two sets of interconnected wells at his Sandy Ave and Silverleaf properties were supposed to be included in this right. Secondly, the pitcher pump is already covered by another right so that will not be considered in this license. Lastly, the Silverleaf operation does not fit into the domestic exempt definition. >200 cattle were found at the property during the field exam and has only one right, 65-5113, that covers that use and is only good for <20 cattle.

I do not believe that the department could guarantee that an enlargement wouldn't occur if we proceeded with the split as recommended by AJ staff. The system at Silverleaf is capable of producing 0.04 cfs and >200 cattle were found at that operation. The Sandy Ave. system appears to have been capable of producing 0.05 cfs and >200 cattle were found at that operation. If this right would be licensed as

described by AJ staff, two rights for 8 afa would be created, instead of one right for 8 afa. In addition, we wouldn't be able to add a combined limit of 8 afa between the two rights since they cover two dairy operations at two different locations, out of two systems. Therefore, I recommend that we license this right for the Silverleaf operation only. I made this recommendation based on verbal information collected from Andy Waldera of Moffatt et.al, Terry's attorney. Apparently, Terry did not intend to have permit 65-13176 cover his dairy operation at Sandy Ave., only Silverleaf (permit 65-13961 was meant to cover Sandy Ave.). Further evidence of this exists in the Application for Amendment of Permit, a memo by AJ staff dated 3/4/98, and the Proof of Beneficial Use Statement. In all three documents, Terry is making an effort to square-away his Silverleaf operation (a well was drilled 9/5/93 at the Silverleaf property which fits the timeline of his amendment). In addition, the proof document cites 9/1993 as a date when beneficial use began for the permit, which is the date that the well was drilled at the Silverleaf property. I spoke further with Andy regarding these rights and he stated that there was confusion on Terry's part by all of the rights he has and by the water right process. The way I propose to license this right is going to be the best way to cover Terry's dairy operations at Silverleaf. Sandy Ave. will be addressed through permit 65-13961.

PD Summary: This permit will be licensed to include 2 wells as listed in the table below. Note that wells #1 and #2 are interconnected.

Tag #	Location	Rights that Use PD	Uses
#1 None	SENE Sec. 15 7N3W	65-13176	Stock
#2 None (Older/Back-up Well)	SENE Sec. 15 7N3W	65-5113 and 65-13176	Domestic and Stock

POU Overlap Analysis: The place of use covers the dairy that is located off of 9000 Silverleaf Rd only.

Right	PD and Capacity		Div. Rate	Volume	Priority
	Well #1	Well #2			
65-5113		x	0.04	1.9	4/1/10
65-13176	x	x	0.04	8.0	11/1/93
Total	0.04	0.03	0.04	9.9	

Well #2 is a back-up well only and these wells were not used in conjunction. The rate will be limited to the capacity of well #1, 0.04 cfs.

Conditioning

Comment	Water Permit Condition Report 65-13176
Found 250 at field exam. Will be limited to volume for 200 cattle	Stockwater use is for 200 dairy cattle.
Doesn't carry to license	046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
Doesn't carry to license	026 Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Volume and Diversion Rate: At the time of the field exam, it was the department's practice to calculate the volume of stockwater using a standard volume of 35 gpd/cow. At the time of the field exam, the make-up of the herd wasn't annotated so the volume will be based on the field examiners recommendation of 8 afa. $[(200 \text{ cattle} \times 35 \text{ gpd} \times 365)/325850] = \sim 8 \text{afa}$

Amendment Needed?: YES. The POU and POD should be amended.

JPEG of POU/PD:

