

MEMORANDUM

TO: Water Right File # 47-7254

FROM: Sandy Hemenway

DATE: July 20, 2009

REF: Recommendation for License

Idaho Code 42-219. Issuance of License. If the department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license confirming such use.

I am recommending Water Right # 47-7254 for Licensing based on the following information:

- All the documentation in the file, conferences held between IDWR and all parties, Orders, Proof of Beneficial Use submitted (5/4/1984), historical ArcMaps confirming irrigation, location of pond and ditches.
- The Memorandum Decision and Order of 7/8/1974 Findings of Fact (The water available in the source is sufficient for the purposes for which it is sought to be appropriated; The source of the water supply is wastewater from the irrigated land of the protestant; The point of diversion requested is on the applicant's land, and the water will be diverted after it leaves the protestant's land).
- Phone conversation on 7/16/2009 with "original applicant" and now "original owner," Russell Biggs, in reference to pump information, design of the system, time and money spent constructing the system, and disputes that went on between neighbors over his ability to be able to irrigate with waste water.
- Theoretical calculations on pump indicating the maximum capacity of the pump to be 0.18 cfs, used to pump flow to a pond and then discharge to 6" gated pipe (gravity flow through dirt ditches).

It is not the applicant's fault that waste water was not available at the time of the field inspection, due to changes in water use above where waste water previously had been produced. For years, the applicant had the capacity to irrigate, and for that he is entitled to receive a License.

I recommend accepting a Theoretical calculation, instead of a physical measurement, due to the circumstances (changes in irrigation practices not producing waste water). The weir and concrete ditch still exist on the south end of the property, where a measurement could have been obtained, had there been a live flow.