

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PETITION TO)
CORRECT WATER RIGHT LICENSE)
NO. 11-7292 IN THE NAME OF)
EMERALD BEACH HOME OWNER ASSOC)

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of the filing of a petition to correct a water right license, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On August 26, 1982, the Department issued Permit 11-7292 (permit) to Emerald Beach Home Owner Assoc (right holder) authorizing the establishment of a right to divert water from groundwater within Government Lot 4(SW¼SE¼) of Section 12, Township 16 South, Range 44 East, B.M.

2. On October 4, 1982, the Department received the right holder's proof of beneficial use statement for the permit.

3. On September 20, 1985, a Department field examiner completed a Beneficial Use Field Report verifying the beneficial use of water established in connection with the permit. The field examiner reported that irrigation and domestic uses were established within Government Lot 4 (SW¼SE¼) of Section 12, Township 16 South, Range 44 East, B.M. The examiner also reported that Water Right License 11-7016 shared the same point of diversion and place of use.

4. The place of use for Water Right License 11-7016 is described as within SW¼SE¼ of Section 12, Township 16 South, Range 44 East, B.M.

5. On October 4, 1989, the Department issued Water Right License 11-7292 (license) for the beneficial use of water established in connection with the permit. The license described the place of use as Government Lot 4 (SW¼SW¼) of Section 12, Township 12 South, Range 44 East, B.M.

6. On February 24, 2009, the right holder submitted a petition asking the Department to correct the license by changing the place of use description. The petitioner also clarified that the name of the water right owner is more properly described as Emerald Beach Inc.

7. The Water Right License 11-7292 does not accurately depict the place of use of water established in connection with the permit.

CONCLUSIONS OF LAW

1. Under Section 42-219, Idaho Code, the Department has a statutory obligation to issue a water right license that accurately portrays the extent of beneficial use of water developed in accordance with the permit.
2. The Department made a typographical error. Water Right License 11-7292 described the place of use of the water use developed by the right holder as being within Government Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 12, Township 12 South, Range 44 East, B.M.
3. The place of use for Water Right 11-7292 should be described as Government Lot 4 (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 12, Township 16 South, Range 44 East, B.M.
4. The Department should correct the error by revising the place of use description on the license.

ORDER

IT IS HEREBY ORDERED that the place of use description for Water Right License 11-7292 is **CORRECTED** as set forth in the Amended Water Right License issued on this date in conjunction with this order.

Dated this 25th day of February, 2009.



JEFF PEPPERSACK, Chief
Water Allocation Bureau