

MEMORANDUM

Date: November 6, 2008
To: Water Right File 63-9661
From: Aaron Marshall
Re: Licensing Review

Beneficial Use and Overlap

The examiner recommended that the license for this right be issued for irrigation of 22.7 acres within a 62.0 acre permissible place of use. However, the permissible place of use does not appear to describe historic beneficial use, rather it describes future plans of the right holder. The examiner recommended a flow rate of 0.46 cfs, based on the limit of 0.02 cfs per acre, and an annual volume of 102.2 acre-feet, based on the standard 4.5 acre-feet per acre for the local area.

The diversion and delivery system used under this right also provides water under right 63-10241 for irrigation of 5.3 acres.

Further evaluation of the irrigated area indicates a total of 32.7 acres irrigated under rights 63-9661 and 63-10241. Using the SRBA recommendation layer in ArcMap to evaluate the acres irrigated under 63-10241 and drawing a shape that avoids overlap of this right, the result is a total of 27.5 acres irrigated under 63-9661 (see attached map). The annual diversion volume for this right should be limited to the standard field headgate requirement for the area (4.5 afa x 27.5 acres) for a total of 123.8 acre-feet. The maximum diversion rate for this right will be limited to 0.02 cfs per acre for a total of 0.55 cfs.

Permissible Place of Use

The current system is capable of delivering water to a 62.0 acre area but water has only been used to irrigate a total of 32.7 acres under rights 63-9661 and 63-10241. In order to authorize a 62.0 acre permissible place of use that has not been historically irrigated, and limit the irrigation under this right to 27.5 acres, the following condition of approval should be included on the license:

"This right is limited to the irrigation of a specific 27.5 acres within the 62.0 acre place of use authorized by this right in a single irrigation season. The specific 27.5 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 27.5 acres to be irrigated within the 62.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur."

Water Source and Protest

The point of diversion authorized by this right is known as Old Penitentiary Well #2, aka Warm Springs Golf Course Well. This well is also used under rights 63-10022 and 63-10241. Pursuant to "Preliminary Order Lifting Stay in Development and Granting Additional Time to Submit Proof of Beneficial Use", issued October 15, 2003, the use of water from Old Penitentiary Well #1 is not authorized by this right.

United Water Idaho protested the Amendment of Permit 63-9661. The company withdrew its protest on the condition that the well not be deepened or opened up to water bearing strata lower than 192 feet below ground surface. This conditional protest withdrawal led to the condition on the amendment of permit which states, "This permit does not authorize the construction of any new well

or the deep[en]ing or enlargement of any existing well." Based on information provided by Ed Squires during a pumping test in July of 1995 and a report on local water supply provided by Keith Anderson in January 2003, the Old Penitentiary Well #2 is open from 120 to 192 feet below ground surface. To address the conditional protest withdrawal, the license should include the following conditions of approval:

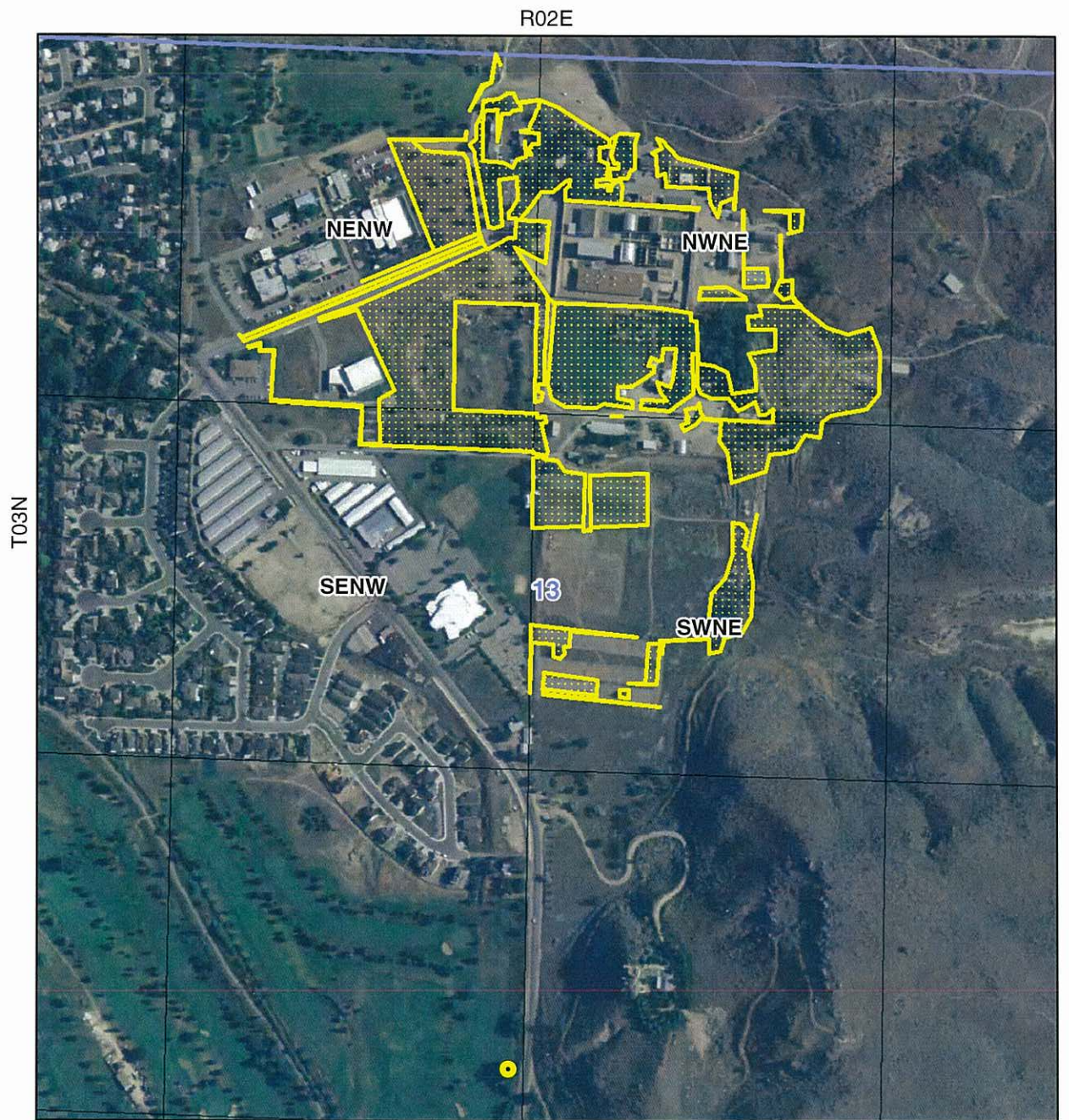
"The diversion and use of water described in this right may be subject to additional limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law."

"Water bearing zone to be appropriated is from 120 to 192 feet. This right holder shall not deepen or enlarge the well used as a point of diversion for this right unless prior approval is obtained from the Department."

Place of Use Boundary for Water Right 63-9661

Total Area within Shape = 27.5 acres

November 6, 2008



Legend

- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 500 1,000 2,000 Feet

