



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

June 24, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

ROBERT L HARRIS
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405

RE: Request to Amend Water Right License No. 22-7397

Dear Mr. Harris:

I am writing you in response to your firm's request that Water Right License No. 22-7397 be amended.

The request to amend the license from 1.97 cfs to 3.16 cfs for the irrigation of 158 acre is based on the capacity of diversion system, which the field examiner found to be 3.21 cfs. When confirming beneficial use, however, IDWR must review the delivery system as well as the diversion system. The beneficial use field report for Permit 22-7397 indicates that the permit holder used nine 32-bird hand lines and that he irrigated 258 acres. In his February 2, 2007, letter to IDWR, Kent Foster acknowledged that the right holder irrigated 100 acres in addition to the 158 acres at the permitted place of use, but he said that the irrigation of the additional 100 acres began after the field examination for the permit. Mr. Foster's statement about the period when the 100 acres was added is not supported by any other documentation or evidence, and IDWR must conclude that irrigation of the additional 100 acres occurred before preparation of the field report supplement by former IDWR employee Keith Wilson. The supplement appears to have been prepared in December of 1987, which is the date on IDWR's review of overlapping water rights.

In evaluating Mr. Foster's request to amend the license, IDWR focused on whether the nine hand lines were used on 158 acres or were spread over 258 acres. The field report is not clear on this point. Using a longstanding rule-of-thumb that an irrigator typically employs about three lines per 80 acres, one would expect 6 lines to be employed on the 158 acres within the permitted place of use, with three additional lines employed on the additional 100 acres. Applying a 5 gpm per bird rule-of-thumb, six 32-bird hand lines would produce about 2.14 cfs, or just over the licensed 1.97 cfs.

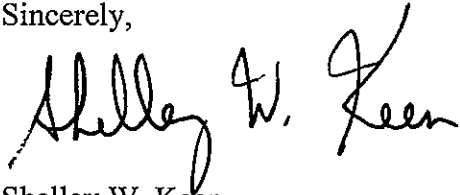
IDWR also considered that all nine lines could have been used on the 158-acre permitted place of use to save the cost of labor to move lines. Nine lines would produce about 3.21 cfs. But, if we assume that all nine lines and all of the 3.21 cfs were applied to the 158-acre permitted place of use, no capacity would be left to simultaneously irrigate the additional 100 acres, which we know was being irrigated with water diverted from the same well.

Rob Harris
May 29, 2008
Page 2

With the information available, it seems most reasonable that nine hand lines were spread over 258 acres, with six of the lines on the licensed 158 acres. Without more information about the distribution system employed during the development period for the permit, IDWR does not conclude that the licensed diversion rate of 1.97 cfs was an error.

If you have any questions, please call me at 208-287-4947, or email me at shelley.keen@idwr.idaho.gov.

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive, flowing style.

Shelley W. Keen
Manager, Water Right Permits Section