

Yenter, Cindy

From: Yenter, Cindy
Sent: Friday, December 14, 2007 11:53 AM
To: Williams Rob (E-mail)
Subject: Millenkamp transfer 73557

Rob - Per our discussion, I cannot completely sign off on the the final two conditions as stated in your letter of October 17, 2007, but I have some recommended alternatives.

Condition 4, password protection on the magmeter, is possible but not entirely practical given other Water District requirements for testing and reading the meter. These functions are not always carried out by the same staff. Mr. Matthews concerns can hopefully be addressed by the data logger requirement which is also a part of our standard magmeter condition. The data logger condition has been added to approved transfers for a few years now, but has not yet been fully enforced. We will soon be implementing and enforcing the data logger requirement on all new and existing magmeters, so Mr. Millenkamp will not be asked to do something that other water users will not. I did add a data logger lockbox requirement to the standard condition, which will give the Water District some control and ensure that the data logger cannot be tampered with.

Condition 5, reporting, is not consistent with state law. Annual diversion reporting may occur *through* the North Snake GWD to Water District 130, and then to IDWR, but the requirement is to report to IDWR. North Snake GWD is an entity with authorization to collect data, but it is not the final data recipient. I have drafted a condition which requires reporting to Water District 130 and which allows reporting through North Snake GWD. This condition is not really necessary on the transfer because these requirements are provided through statute, but I have added it to address the protest concerns. IDWR may decide upon approval of the transfer that this condition is redundant.

Attached are the draft conditions. They will appear on all three water rights. Condition 115 addresses the mag meter requirements, and the last condition addresses reporting.

Please advise me if your client and Mr. Matthews are in agreement with these conditions. Otherwise the transfer is ready to move forward to final approval.

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Millenkamp 73557
conditions.pd...

Transfer Number 36-16242

- 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
- X50 The well previously used under Rights 36-4157F, 36-16242, and 45-16244 located within the SWNW of Section 27 (T07S, R16E) shall be abandoned in a manner which complies with Department well abandonment rules.
- X35 Rights 36-16242 and 36-16244 when combined shall not exceed a total diversion rate of 0.32 cfs.
- 113 Beginning on the date of approval of Transfer 71604 Rights 36-16242 and 36-16244 when combined are limited to the following schedule of allowed diversion volume from all points of diversion. The diversion of water shall be evenly distributed throughout the authorized season of use, except that minor variations are allowed for seasonal fluctuations in water requirements. The right holder shall file a notice of intent with the Department prior to increasing the annual volume each time an increase according to the schedule is sought.
- Year 2005 the rights are limited to 42.6 afa.
Years 2006 through 2008 the rights are limited to 49.2 afa.
Years 2009 through 2019 the rights are limited to 52.5 afa.
Years 2020 through 2039 the rights are limited to 55.8 afa.
Year 2040 and beyond the rights are limited to 59.0 afa.
- R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
- 115 Prior to the diversion and use of water under Transfer approval 73557, the right holder shall install and maintain acceptable magmeter measuring device(s) with digital readout, including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications. A lockable enclosure shall be provided around each data logger and Water District 130 shall install a padlock and have exclusive access to the data logger(s).
- R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
- X36 Rights 36-4157F and 36-16244 are also diverted through the point(s) of

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diversion described above.

- 114 The model used to calculate depletion effects and mitigation for the Milner to King Hill reach may also show gains in other reaches of the Snake River. Such gains have not been quantified at this time. The right holder retains the right to seek quantification of such gains resulting from Transfer approval 71604. Protestants retain the right to object to the quantification of such gains. If such reach gains are quantified and acknowledged by the Department, credits for such gains shall be available for use only after the Department has implemented a system for administering such credits.

Commercial use is for a feedlot operation.

- 082 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
- T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
- T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



All annual diversions shall be reported to IDWR through Water District 130. At the discretion of the WD130 Watermaster, annual diversions may be reported to WD130 through the North Snake Ground Water District.