



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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October 18, 2007

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: Question Regarding Permissible Place of Use for Water Right No. 27-7577

Dear Mr. Harris:

The Department of Water Resources (Department) recently received your letter on behalf of the City of Blackfoot (City) regarding the licensing of water right no. 27-7577. The question posed was, "whether or not this water right could be licensed with a condition permitting its use within the service areas of the East Idaho, Corbett Slough, and Blackfoot Irrigation companies which divert from Miner's Ditch."

In addressing the proposition of a permissible place of use, the Department must consider that the water right is owned by the City, not the canal companies, and that it should be licensed in accordance with the historical use as developed under the terms of the permit. You indicated in your letter that upon review of the place of use shape file, you concur that the areas developed under the permit are accurately depicted.

Engineering consultant to the City, Marvin Fielding of Schiess & Associates, requested a reevaluation of the flow rate on the Application for Amendment for licensing purposes mailed to the City. Mr. Fielding provided a copy of "Miner's Ditch Water Usage Engineering Report" prepared July 2002 by Schiess & Associates. Based on soil conditions, irrigation methods, and conveyance loss data included in the report, the Department has determined that the water right should be licensed for the permitted amount of 7.28 cfs. A revised Application for Amendment for licensing purposes is enclosed.

If the City concurs with the terms and conditions of the enclosed application, please sign and return along with the \$50.00 filing fee. If the City does not concur with the terms and conditions on the application, the license will be issued for less than what could have been allowed. After licensing the water right, the Department could process a transfer application if it is desirable to change the place of use, point of diversion, or other aspect of the right.

If you have any questions, please contact me at (208) 287-4943.

Sincerely,

Aaron Marshall  
Water Allocation Bureau

c: City of Blackfoot  
Marvin Fielding – Schiess & Associates  
Ernie Carlsen – IDWR Eastern Regional Office