

MEMORANDUM

DATE: October 21, 2007

TO: Water Right File 37-7638

FROM: Shelley W. Keen *SWK*

RE: The right should be licensed as a primary use

The primary question regarding the licensing of Right 37-7638 is whether the use was established as a supplemental use or as a primary use.

It initially appeared to IDWR that the use of ground water under this right was supplemental to surface water. The application for permit says:

Twin Lakes water is normally available during the months of June, July, and first half of August. This water is necessary to make a more economical operation for the sprinkler system which is already in operation by lengthening the sprinkling season. Also during low water years it will be extremely important.

The first field report from 1989 is not completely clear about the use of surface water, although it suggests a history of surface water use. It lists "Twin Lakes Canal Co. shares" as having the same place of use. It does not, however, specifically state that the right holder used both the Twin Lakes water and the ground water at the same time. The second field report from 1995 indicated that the farm was just then being converted from flood irrigation to sprinkler irrigation. It also stated that while the farm was flood irrigated, "well water was co-mingled with Mormon Reservoir water in ditches."

Despite these strong indications that the right was developed as a supplemental water supply, for the following reasons I am recommending that IDWR issue a license for Right 37-7638 without requiring the use to be supplemental to surface water.

- The current landowner submitted an affidavit from William Sweet, the original permit holder, in which he states that in 1979, which was three years before he submitted proof of beneficial use, he began using only ground water to irrigate 260 to 270 acres east of Highway 46. IDWR received a similar affidavit from Bonnie Sweet, wife of William Sweet.
- Even though the application for permit clearly indicates that the intent of the applicant was to use ground water as a supplemental supply of irrigation water, the permit did not have a condition requiring the use to be supplemental.

Memo to Water Right File 37-7638

October 21, 2007

Page 2

- The 1989 field report does not definitely say that ground water had been used as a supplemental supply. In 1979 the field examiner may not have seen the farm as it was operated before 1982. This examiner reported seeing only flood irrigation, which contradicts the statement on the application that a sprinkler system was already in place. The examination was done when the farm was owned by Idaho State Bank, which may have liquidated the sprinkler irrigation equipment before the field examiner arrived.
- The 1995 field examiner also did not see the farm as it was operated prior to 1982. His report that the ground water was supplemental until that time may be true for the period just prior to 1995, but circumstances may have been quite different 15 years earlier.