

MEMORANDUM

TO: Files 67-7732 & 67-7899

FROM: KAY WALKER

RE: Request for Reconsideration of Licenses

Date: December 15, 2005

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On November 29, 2005, the Department issued licenses for the above referenced permits. On December 12, 2005, the Department received Petitions for Reconsideration for both of the licenses. The right holders have petitioned for review of the quantity, period of use and conditions of approval attached to the licenses. In response to the petition I offer the following:

Right 67-7732

Permit was issued on July 28, 1988 for the diversion of 1.0 cfs of Sage Creek water to storage for the irrigation of 480 acres. The permit was issued for storage in the amount of 42 acre feet. Season of use for irrigation from storage was permitted from 3/15 to 11/15.

License was issued for the diversion of 1.0 cfs of Sage Creek water to storage for the irrigation of 480 acres within a permissible place of use of 827 acres. The license was issued for storage in the amount of 42 acre feet. The season of use was changed to 3/15 to 10/31 per season of use standards for this area.

Conditions on the license that were included in the petition were listed as Conditions of Approval 1, 3, 4, and 7.

1. This right is limited to the irrigation of 480 acres within the place of use described above in a single irrigation season.
 - Used for limitation of permitted acres when those acres were included in a permissible place of use. IDWR cannot issue a license for more acres than permitted. However, Idaho Code §42-222 allows for the transfer of a storage right to more acres if no other rights will be injured.
3. Rights 67-7899, 67-0638, 67-0639, 67-0644, 67-0645, 67-0646, 67-0647, 67-0648, 67-0649, 67-0650, 67-0651, 67-0652, 67-0653, and 67-7732 when combined shall not exceed the irrigation of 827 acres.
 - Used to limit all rights to the number of acres found irrigated during exam conducted in September of 1992 (as shown by Arthur Fairchild who accompanied the field examiner).
4. Right 67-7899 is also diverted through the point of diversion described above and when combined with Rt. 67-7732 shall not exceed a total diversion rate of 1.0 cfs.

- Examiner determined that flow capacity of 1.0 cfs could be diverted from Sage Creek based on cross section and high water mark measurements taken at the flume located on the ditch. This is the same ditch used to divert Sage Creek water to Fairchild Reservoir #2 under Rt. 67-7899 so a limitation was needed since both rights use same diversion and water to fill Fairchild Reservoir #2. A diversion to storage amount of $0.15 \text{ cfs} \times 1.9835 \times 365 \text{ days} = 108.6 \text{ acre feet}$. The 1.0 cfs amount that we have licensed, if diverted 365 days a year would produce 724 acre feet of water. The amount licensed, even when combined with Rt. 67-7899, will provide more water than the reservoir can store.
7. No water shall be diverted under this right after June 15 of each year without prior approval of the watermaster.
- Condition of approval on permit. Carried over to license since that condition will still apply to use of water under this right.

Right 67-7899

Permit was issued December 13, 1993 for the diversion of 1.0 cfs of Sage Creek water to store for the irrigation of 800 acres. The permit was issued for storage in the amount of 66.0 acre feet. Season of use for irrigation from storage was permitted from 4/1 to 10/31.

License was issued for the diversion of 1.0 cfs of Sage Creek water to store for the irrigation of 800 acres within a permissible place of use of 827 acres. The license was issued for storage in the amount of 66 acre feet. The season of use was changed to 3/15 to 10/31 per season of use standards for this area.

Conditions on the license that were included in the petition were listed as Conditions of Approval 1, 3 and 4.

1. This right is limited to the irrigation of 800 acres within the place of use described above in a single irrigation season.
 - Used for limitation of permitted acres when those acres were included in a permissible place of use. IDWR cannot issue a license for more acres than permitted. However, Idaho Code §42-222 allows for the transfer of a storage right to more acres if no other rights will be injured.
3. Rights 67-7732, 67-0638, 67-0639, 67-0644, 67-0645, 67-0646, 67-0647, 67-0648, 67-0649, 67-0650, 67-0651, 67-0652, 67-0653, and 67-7899 when combined shall not exceed the irrigation of 827 acres.
 - Used to limit all rights to the number of acres found irrigated during exam conducted in September of 1992 (as shown by Arthur Fairchild who accompanied the field examiner).
4. Right 67-7732 is also diverted through the point of diversion described above and when combined with Rt. 67-7899 shall not exceed a total diversion rate of 1.0 cfs.

- Examiner determined that flow capacity of 1.0 cfs could be diverted from Sage Creek based on cross section and high water mark measurements taken at the flume located on the ditch. This is the same ditch used to divert Sage Creek water to Fairchild Reservoir #2 under Rt. 67-7732 so a limitation was needed since both rights use same diversion and water to fill Fairchild Reservoir #2. A diversion to storage amount of 0.15 cfs x 1.9835 x 365 days = 108.6 acre feet. The 1.0 cfs amount that we have licensed, if diverted 365 days a year would produce 724 acre feet of water. The amount licensed, even when combined with Rt. 67-7899, will provide more water than the reservoir can store.

While preparing these licenses I ran place of use comparison reports for all water rights that might overlap these permits. The place of use overlap identified 12 decreed rights that had been appurtenant to the same lands to be irrigated under these storage rights. The overlapping rights, along with the recently licensed rights, are shown on below.

<u>Basin</u>	<u>Sequence</u>	<u>Priority Date</u>	<u>Rate</u>	<u>Vol</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Source Table</u>
67	638	1888-06-01	0.80		SAGE CREEK	IRRIGATION	wrWaterRight
67	639	6/1/1917	1.04		SAGE CREEK	IRRIGATION	wrWaterRight
67	644	6/1/1905	0.30		SAGE CREEK	IRRIGATION	wrWaterRight
67	645	6/1/1906	0.30		SAGE CREEK	IRRIGATION	wrWaterRight
67	646	6/1/1911	0.10		SAGE CREEK	IRRIGATION	wrWaterRight
67	647	6/1/1913	0.30		SAGE CREEK	IRRIGATION	wrWaterRight
67	648	6/1/1914	0.56		SAGE CREEK	IRRIGATION	wrWaterRight
67	649	6/1/1911	0.30		SAGE CREEK	IRRIGATION	wrWaterRight
67	650	6/1/1913	0.50		SAGE CREEK	IRRIGATION	wrWaterRight
67	651	6/1/1906	0.70		SAGE CREEK	IRRIGATION	wrWaterRight
67	652	6/1/1908	0.70		SAGE CREEK	IRRIGATION	wrWaterRight
67	653	6/1/1913	0.30		SAGE CREEK	IRRIGATION	wrWaterRight
67	2302	7/9/1962	0.20		GROUND WATER	IRRIGATION	wrAdjudicationClaim
67	2390	2/10/1967		4000.00		IRRIGATION FROM STORAGE, IRRIGATION STORAGE, STOCKWATER FROM STORAGE, STOCKWATER STORAGE	WtAdjudicationClaim BASED ON PERMIT
67	7732	4/26/1988	1.00	42.00	SAGE CREEK	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	wrWaterRight
67	7899	6/19/1992	1.00	66.00	SAGE CREEK	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	wrWaterRight
67	14107	6/1/1917	6.96		SAGE CREEK	IRRIGATION	wrAdjudicationClaim

Rights 67-638, 67-639, 67-640, 67-641, 67-642, 67-643, 67-644, 67-645, 67-646, 67-647, 67-648, 67-649, 67-650, 67-651, 67-652 and 67-653 have been combined into one claim in the SRBA, No. 67-14107. In overlap review I did not find any place of use overlap with Rts. 67-640, 67-641, 67-642 and 67-643 since they were decreed for irrigation of lands in Sec. 19, T13N, R3W and these lands have not been included on the licenses issued. SRBA claim 67-14107 does not include any lands in Sec. 19,

T13N, R3W either. SRBA claim 67-14107 claimed the irrigation of 800 acres when submitted.

It appears that I should have included 67-2302 in my overlap conditions since that license was issued for diversion from a well for 277 acres within the licensed place of use. However, the SRBA claim for that right only claims irrigation of 10 acres at this time which examiner indicates are separate acres from the 827 acres he identified.