

MEMORANDUM

DATE: May 5, 2005

TO: Water Right Files 65-2590C and 65-11272C

FROM: Shelley W. Keen *SWK*

RE: Nature of Use Changed to Mitigation

Approval condition no. 9 of the amendment to Permit 65-22885 changed the purpose of use of Rights 65-2590C and 65-11272C to "mitigation". The intent is for these two rights to remain undiverted in exchange for the opportunity to divert water and irrigate under Permit 65-22885.

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 65-22885

Priority: May 19, 2004

Maximum Diversion Rate: 0.11 CFS

This is to certify, that EUGENE M SHEPHERD And/Or
JONI D SHEPHERD
PO BOX 398
HORSESHOE BEND ID 83629

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: GROUND WATER

Tributary: PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/15	0.11 CFS

LOCATION OF POINT(S) OF DIVERSION:GROUND WATER L1 (SE $\frac{1}{4}$ SE $\frac{1}{4}$) Sec. 24, Twp 07N, Rge 01E, B.M. GEM CountyPLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	01E	24																	6.0
																			L 1

Total Acres: 6

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before July 1, 2007.
2. Subject to all prior water rights.
3. Project construction shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. 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. 65.
7. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
8. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.

State of Idaho
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Amendment of Permit

NO. 65-22885

CONDITIONS OF APPROVAL CONTINUED

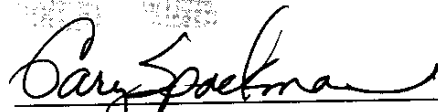
9. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights. Moreover, the official record for the following water rights will be changed to show that diversion and use of water is not authorized because the rights are being dedicated to mitigation purposes.

Right No	Priority	Use Changed to Mitigation	Mitigation Rate	Acres
65-2590C	4/19/1954	Irrigation	0.08 cf	4.2
65-11272C	6/22/1966	Irrigation	0.03 cfs	1.6

If the specified mitigation rights, or portions thereof, are sold, transferred, leased, used on any place of use, or are not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit shall be reduced by the same proportion as the reduction to the mitigation rights, or the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate the depletion of water caused by this water use.

10. For the purposes of regulating surface water rights in Water District 65, the diversion and use of water under this right shall be regulated and administered according to the priority dates of the mitigation rights.
11. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code. Witness the signature of the Director, affixed at Boise, this 4th day of May, 2005.


KARL J DREHER, Director