

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF A PETITION TO)
CORRECT WATER RIGHT LICENSE)
NO. 35-8650)
_____)

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of the filing of a petition to correct a water right license, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On August 10, 1987, the Department issued Permit 35-8650 (permit) to the U. S. Dept. of Interior, Bureau of Land Management (right holder), for the diversion of 0.5 acre-feet per year from an unnamed stream to store water for stock watering purposes within the NW¼SW¼SW¼ of Section 13, Township 1 South, Range 28 East, B. M., Butte County.
2. On February 28, 1989, the Department received the right holder's proof of beneficial use statement for the permit.
3. On March 25, 1993, the right holder claimed the permit in the Snake River Basin Adjudication (SRBA).
4. On September 26, 1995, a Department field examiner conducted an inspection to verify the beneficial use established in accordance with the permit. The field examiner reported that the stockwater storage use was established in the NW¼SW¼SW¼ of Section 13, Township 1 South, Range 28 East, B. M.
5. On February 14, 1996, the Department issued Water Right License 35-8650 (license) to the right holder with the point of diversion and place of use described as the SW¼SW¼ of Section 13, Township 1 South, Range 28 East, B. M., as had been permitted and reported by the Department field examiner.
6. On May 29, 1997, the Department submitted a Director's Report to the SRBA court recommending that the point of diversion and place of use for Water Right 35-8650 be decreed as licensed.

7. On September 29, 1997, the right holder submitted an objection to the Director's Report for Water Right 35-8650 to the SRBA court. The objection alleged that the legal descriptions reported in the Director's Report as the point of diversion and place of use for the claim were not accurate.
8. On March 11, 1998, the SRBA court held a hearing concerning the objection filed by the right holder against the Department's recommendation for Water Right 35-8650. The right holder reported that Global Positioning System data its staff had collected during their investigation of the objection indicated the location of the point of diversion and place of use were incorrectly described on the license and subsequent recommendation.
9. The Department has received the right holder's Global Positioning System data showing that the point of diversion and place of use for water right 35-8650 are in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, Township 1 South, Range 28 East, B. M.
10. On July 18, 2001, the right holder submitted a petition asking the Department to correct the license by changing the point of diversion and place of use descriptions.
11. On June 15, 2004, the Department received the right holder's application for amendment to change the permitted point of diversion and place of use to the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, Township 1 South, Range 28 East, B. M.

CONCLUSIONS OF LAW

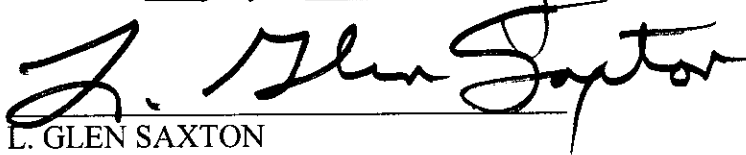
1. Section 42-219, *Idaho Code*, directs the Department to issue a water right license that accurately portrays the location and extent of the beneficial use of water developed in accordance with the permit.
2. The information used to issue Water Right License 35-8650 with the point of diversion and place of use described as the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, Township 1 South, Range 28 East, B.M., was not accurate.
3. The point of diversion and place of use for Water Right 35-8650 should be described as SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, Township 1 South, Range 28 East, B.M.
4. The Department should approve the application to amend Permit 35-8650.
5. The Department should revise the point of diversion and place of use descriptions on the license.

ORDER

IT IS HEREBY ORDERED that the application to amend Permit 35-8650 submitted to the Department on June 15, 2004, is approved.

IT IS FURTHER HEREBY ORDERED that the place of use description for Water Right License 35-8650 is **CORRECTED** as set forth in the Amended Water Right License issued on this date in connection with this order.

Dated this 27th day of July, 2004.

A handwritten signature in black ink, appearing to read "L. Glen Saxton", written over a horizontal line.

L. GLEN SAXTON
Administrator, Water Management Division