

From: Lester, Steve
Sent: Wednesday, April 30, 2014 3:58 PM
To: 'Monty.Marchus@deq.idaho.gov'
Cc: Collingwood, Rick
Subject: RE: Water Right License for RAFNs

Monty:

I recall recent conversations with State Office staff about possibly delaying a RAFN license until end of planning horizon even though proof would have been filed years earlier. I got the impression that is the preferred method. However, in hindsight, the conversation was about a possible RAFN for a complicated situation, not about Idaho City.

You got it right based on the information on page 18 of that memo you mentioned. The only other reference I know about is IC 42-219, the "licensing statute." It references RAFN but not in any detail. The statute provides no time line for when a RAFN license should be issued, just sometime after proof filed. So it appears the department could delay licensing until the end of the planning horizon if warranted.

For the only RAFN licenses I found in a current statewide search of rights with RAFN condition of approval X64, the department followed the memo method of issuing a license after proof was filed but before the end of the planning horizon. Those licenses were issued 8/2008 thru 12/2012 before that memo was issued in 4/2013, so all the conditions of approval on pg 18 of the memo are not necessarily found on all 3 licenses. Those licenses are 63-33022, 95-9009 & 98-7825. (Decreed right 37-20853 is a 4th right that includes X64 but via Transfer 70087, not from licensing.)

Based on the track record, default method for RAFN licensing includes:

- 1) Proof of beneficial use is typically due years before the end of the planning horizon. "Proving up" will include at least constructing all proposed wells (or something equivalent for a surface water system) and trunk lines for the service area. Wells do not have to include pump systems at the time of filing proof.
- 2) Assuming development continues towards full build-out of the RAFN after filing proof, the department could issue the license without waiting for the end of the planning horizon. This would include those conditions discussed on page 18 that you quoted.

As with any water right, the extent of a RAFN right not beneficially used could be subject to forfeiture or abandonment in a future process. Therefore, an amount of RAFN use that was licensed but not fully used by the end of the planning horizon would be considered suspect in some future proceeding. We'll have to cross that bridge if encountered someday.

There is not much information about RAFN licensing so far.

Steve

From: Monty.Marchus@deq.idaho.gov [<mailto:Monty.Marchus@deq.idaho.gov>]
Sent: Wednesday, April 23, 2014 4:57 PM
To: Lester, Steve
Cc: Collingwood, Rick
Subject: Water Right License for RAFNs

Steve,

I believe you told me that the Applicant would not get the Water Right License until the end of the 20 year planning horizon. I was trying to check that in the Memorandum Recommendations for the Processing of Reasonably Anticipated

Future Needs (RAFN) Municipal Water Rights at the Time of Application, Licensing, and Transfer. The only thing I spotted was this on Page 18:

All RAFN licenses shall also include approval conditions requiring that all future needs must be constructed by the end of the planning horizon (109) and that the place of use (POU) associated with a RAFN water right shall not be changed to a location outside of the service area (110).

That isn't crystal clear to me, so:

- Did I get that right?
- Is it explained more clearly somewhere else in the Memo or in Idaho Code?

To save your times, could either you or Rick use Reply to All and let me know?

Thanks. Monty

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