



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

December 21, 2006

Diana Delaney
253 3rd Ave. N.
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Error in Partial Decree for Water Right No. 37-07739

Dear Diana:

It has recently come to the Department's attention that there is an error in the point of diversion element of the partial decree for water right no. 37-07739. Water right no. 37-07739 was partially decreed on September 21, 2006 to the Idaho Water Resources Board ("Board") as a minimum stream flow water right on the Little Wood River.

The partial decree for water right no. 37-07739 lists two points of diversion on the Little Wood River. The point of diversion that is at issue is the first point of diversion, which is located in "S06 Lot 5 (NWSWNW) (Instream Beginning Point) Within Lincoln County."

Water right no. 37-07739 was licensed by the Department on July 15, 1986. A true and correct copy of license no. 37-7739 is enclosed with this letter for your convenience. The point of diversion was described as follows: "*said flow is located within the reach from the confluence [of the Little Wood River] with Silver Creek* in Lot 5 (SW1/4 NW1/4), Section 6, Twp 3S, Rge 21E, downstream to U.S.G.S. stream gage station No. 13-1510, located in Lot 3 (NW1/4 SW1/4), Section 30, Twp 4S, Rge 20E, B.M., Lincoln County." Emphasis added.

The point of diversion in S06 Lot 5 SW1/4 NW1/4 was claimed by the Board as S06 Lot 5 NE1/4 SW1/4 NW1/4, recommended by the Department as S06 Lot 5 NW1/4 SW1/4 NW1/4, and partially decreed by the Court as recommended. Both the Department's recommendation and the Court's partial decree, like the original license, state that "*Said flow is located within the reach from the confluence [of the Little Wood River] with Silver Creek . . .*" Emphasis added.

A recent review of water right no. 37-07739 by staff assigned to the Department's minimum stream flow program has revealed that the legal description of the confluence of the Little Wood River with Silver Creek is incorrect.

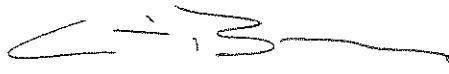
As shown in the enclosed map, the correct legal description of the confluence of Silver Creek with the Little Wood River is T02S R21E S31 Lot 4 SESWSW.

The recommendation and partial decree carried forward the incorrect legal description; however, both the recommendation and partial decree contained the language from the license which stated that the beginning point of diversion "is located within the reach *from the confluence [of the Little Wood River] with Silver Creek . . .*" Emphasis added.

Based on the above-cited language contained in the license, recommendation, and partial decree, combined with the enclosed map, the Department requests that the Court correct the Instream Beginning Point from T03 R21E S06 Lot 5 (NWSWNW) to T02S R21E S31 Lot 4 SESWSW.

If you have any further questions regarding the error contained in water right no. 37-07739, please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "C. Bromley", with a long horizontal flourish extending to the right.

Chris M. Bromley

Encls.

cc: Hal Anderson, Administrator, Planning and Technical Services
Bill Graham, Planning Bureau Chief
Morgan Case, Staff Biologist

WATER RIGHT LICENSE

THIS IS TO CERTIFY, that Idaho Water Resource Board
of Boise, Idaho, has complied with the terms and conditions of Permit
No. 37-7739 issued pursuant to Application for Permit dated September 29, 1978,
and has submitted proof to the Department of Water Resources on September 3, 1985,
that he has applied water to a beneficial use, an examination by the Department indicates that the works have a
capacity for the diversion of N/A of water from Little Wood River,
tributary to Snake River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use Instream Flow	Period of Use	Rate of Diversion	Annual Volume
	from January 1 to December 31	at 39.0 cfs and	N/A
	from to	at cfs and	
	from to	at cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 39.0 cfs of water ~~be diverted at any one time~~ ^{is appropriated} and that the amount of water so ~~diverted and~~ ^{appropriated} to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used. Said flow is located within the reach from the confluence with Silver Creek in Lot 5 (SW1NW1), Section 6, Twp 3S, Rge 21E, downstream to U.S.G.S. stream gage station No. 13-1510, located in Lot 3 (NW1SW1), Section 30, Twp 4S, Rge 20E, B.M., Lincoln County.

Description and location of place of use: As shown above.

[illegible]

MICROFILMED

ORIGINAL

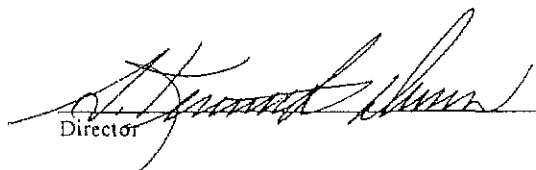
CONDITIONS OF APPROVAL

- a. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.
- b. The right to the use of the water hereby confirmed is restricted and appurtenant to lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.
- c. Any water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water other than hydropower, within the State of Idaho initiated later in time than the priority of this license.

Use of water under this license is subject to control by the watermaster of State Water District No. 37M, Little Wood River.

This instream flow water right is subject to all prior water rights.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 15TH day of July, 19 86.


Director



Little Wood River Minimum Stream Flow 37-7739

02S21E31
SWSW
Lot 4

Silver Creek

02S20E36 02S21E31
03S20E1 03S21E6

03S21E6
SWNW
Lot 5

Little Wood River



Correct Point of Diversion



Incorrect Point of Diversion



Public Land Survey Sections

Public Land Survey QQs



NHD 24K Hydrography



0.1 0 0.1 0.2 Miles

