

## Skinner, Corey

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**From:** TJ Budge <tj@racineolson.com>  
**Sent:** Tuesday, January 28, 2020 2:52 PM  
**To:** Skinner, Corey; David Coleman  
**Subject:** RE: Water Right Application No. 36-17111

Corey,

Thanks for the call this afternoon. Per our conversation, IGWA will withdraw its objection to condition #9 in permit no. 36-17111 but reserves the right to object to this condition in other circumstances.

Thanks,

**T.J. Budge**  
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**From:** Skinner, Corey <Corey.Skinner@idwr.idaho.gov>  
**Sent:** Tuesday, January 28, 2020 10:33 AM  
**To:** TJ Budge <tj@racineolson.com>; David Coleman <david@colemanjacobsonlaw.com>  
**Subject:** RE: Water Right Application No. 36-17111

IDWR has committed to applying one of two conditions to trust water rights. These two conditions are as follows...

When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.

Or

Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.

The first condition applies to consumptive uses and the second condition applies to non-consumptive uses (or consumptive uses that are mitigated). Of the two conditions, the second seems most appropriate in my mind considering the water use proposed by this particular application.

**From:** TJ Budge [<mailto:tj@racineolson.com>]  
**Sent:** Monday, January 27, 2020 1:03 PM  
**To:** Skinner, Corey <[Corey.Skinner@idwr.idaho.gov](mailto:Corey.Skinner@idwr.idaho.gov)>; David Coleman <[david@colemanjacobsonlaw.com](mailto:david@colemanjacobsonlaw.com)>  
**Subject:** RE: Water Right Application No. 36-17111

Corey,

The only question that gives me pause is #9 which deals with the Swan Falls Agreement. In the pending Buckeye permit applications the cities have identified a scenario where the diversion of groundwater could cause a breach of the minimum flows at Murphy Gage even though the use of water is non-consumptive. In light of this my inclination is that condition #9 should not be included in the BLCC permit. What are your thoughts on this?

Thanks,

**T.J. Budge**  
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**From:** Skinner, Corey <[Corey.Skinner@idwr.idaho.gov](mailto:Corey.Skinner@idwr.idaho.gov)>  
**Sent:** Monday, January 27, 2020 12:40 PM  
**To:** David Coleman <[david@colemanjacobsonlaw.com](mailto:david@colemanjacobsonlaw.com)>; TJ Budge <[tj@racineolson.com](mailto:tj@racineolson.com)>  
**Subject:** RE: Water Right Application No. 36-17111

David and TJ,

The scanned copy of the signed settlement agreement that David provided will work on our end.

I have attached a draft permit for both of you to review. The new draft version incorporates the 2800 acre-feet annual volume limitation and I removed the condition relating to limiting diversions to daylight hours pursuant to the signed agreement. If the draft permit works for both of you, we will proceed with issuing the permit and vacating the hearing.

Let me know,

Corey

**From:** David Coleman [<mailto:david@colemanjacobsonlaw.com>]  
**Sent:** Friday, January 24, 2020 1:31 PM  
**To:** Skinner, Corey <[Corey.Skinner@idwr.idaho.gov](mailto:Corey.Skinner@idwr.idaho.gov)>  
**Cc:** TJ Budge <[tj@racineolson.com](mailto:tj@racineolson.com)>; 'Chuck, Jr Brockway ([charles.g.brockway@brockwayeng.com](mailto:charles.g.brockway@brockwayeng.com))' <[charles.g.brockway@brockwayeng.com](mailto:charles.g.brockway@brockwayeng.com)>; [jasmussen@bluelakescc.com](mailto:jasmussen@bluelakescc.com)  
**Subject:** Water Right Application No. 36-17111

Corey,

We have a signed Settlement Agreement. I have attached for your records. Do you need the original signed agreement in your file? If so, please let me know so that we can get it for you. I believe you can take the hearing off the calendar now and we can move forward with finishing the application for the permit. Please advise me as to what you need from us to move forward.

Thank you,

David.

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Coleman, Ritchie & Jacobson  
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