

2005

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
TEMPORARY CHANGE OF A )  
WATER RIGHT 34-28D, 34-61C, & 34-891A )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

ORDER AUTHORIZING  
TEMPORARY CHANGE

TC-34-66

WHEREAS, a drought emergency has been declared for Butte County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; and

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency, the director of the Department of Water Resources ("Department") is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights or temporary exchanges of water authorized under water rights when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, *Idaho Code*; and

WHEREAS, on May 11, 2005, Jay ANDERSEN submitted the attached Temporary Change Application TC-34-66 to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application can be approved with certain conditions;

ORDER

IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:


1. Diversion and use of right no(s). 34-28D, 34-61C & 34-891A is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a new point of diversion.
3. The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.
4. This temporary change approval may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.

**ORDER AUTHORIZING  
TEMPORARY CHANGE**

TC-34-66

5. Right(s) 34-28D, 34-61C & 34-891A are limited to the irrigation of a total of 132 acres in a single irrigation season
6. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the written consent of such corporation or irrigation district.
7. The applicants agree to hold the director and the state of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
8. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
9. The applicant is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES"
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Water master of Water District No. 34 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on OCTOBER 31, 2005 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary change approval.

DATED this 13<sup>th</sup> day of May, 2005.

  
Ronald D. Carlson  
Eastern Regional Manager

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
TEMPORARY CHANGE APPLICATION

RECEIVED  
MAY 11 2005

Department of Water Resources  
Eastern Region

(To change point of diversion, place of use or purpose of use)

Name of Applicant Jay Andersen Phone 527-3341  
Post Office Address Rt 1, Box 41 Moore, ID 83255

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use  
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and the reason(s) thereof Changing place of use and point of diversion to facilitate delivery of water.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
* <u>34-00061C</u>	<u>8/10/1883</u>	<u>.2125</u>	<u>Irrigation</u>	<u>5-1</u> to <u>10-15</u>
* <u>34-00028D</u>	<u>8/31/1884</u>	<u>.4</u>	<u>Irrigation</u>	<u>5-1</u> to <u>10-15</u>
* <u>34-00891A</u>	<u>5/12/1885</u>	<u>.2</u>	<u>Irrigation</u>	<u>5-1</u> to <u>10-15</u>

\* Split with Penny Hawkins

2. Total amount of water being transferred .8125 cubic feet per second and/or 1.611 acre-feet per annum.

3. Source of water Surface tributary to Big Lost River

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		NW	NW	NW	26	4	26	Butte	Munsey

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	26E	2		29.4															29.4
4N	26E	35												23			30.6	21.5	75.1

Total Acres 104.5

6. General Information:

TC-34-66

- a. Who owns the water right to be changed? Phyllis Jones Split w/ Penny Hawkins
- b. Describe the arrangement allowing use of the right Agreement w/ owner attached
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:  
Phyllis Jones's ground will not be farmed.
- d. Has the water right sought to be transferred been used this year? No If yes, explain. \_\_\_\_\_
- e. Absent the changes, how would the right be used for the remainder of the year? not possible to get water to place of use without transfer/change of POD
- f. Describe other water rights used for the same purpose.  
34-10665 a storage
- g. Remarks: Drought

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

Jay A. Anders  
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 5/11/2005 Fee \$50<sup>00</sup>

Received KCW 5/13/05 # E 030875 Recommend: / approve \_\_\_\_\_ deny \_\_\_\_\_

Watermaster recommendation \_\_\_\_\_

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-34-66

And said application is hereby APPROVED, subject to the following limitations and conditions:

Witness my hand this 13<sup>th</sup> day of May, 2005.

Ronald D. Carls  
For the Director

TC-34-66

I Penny R. Hawkins has agreed to allow Jay Andersen a split with my  
water rights 8/10/1883, 8/31/1884 and 5/12/1885 for the 2005 season only.


Penny R. Hawkins 4-28-05  
Sign & Date


RECEIVED

MAY 11 2005

Department of Water Resources  
Eastern Region

TC-34-66

I  agree to let Jay Andersen use my water rights  
8/10/1883, 8/31/1884 and 5/12/1885 for the 2005 season only.

 4-19-05  
Sign & Date

RECEIVED  
MAY 11 2005  
Department of Water Resources  
Eastern Region

State of Idaho  
Department of Water Resources  
Transfer of Water Rights

TC-34-61

RECOMMENDATION OF WATERMASTER

Transfer Application No:  
34-00028D / 34-00891A

Water Right No(s): 34-00061C /

Transfer Applicant's Name: Jay Andersen / Penny Hawkins  
Watermaster's Recommendation:

RECEIVED  
MAY 11 2005

Department of Water Resources  
Eastern Region

- a) X I do not oppose approval of this application.
- b)        I do not oppose approval of this application if it is conditioned as follows:
- c)        I oppose approval of this application for the following reasons:
- d)        Additional Comment:

Dated this 9<sup>th</sup>, day of May, 2005

Water District No: 34

  
Watermaster's Signature

## IDAHO DEPARTMENT OF WATER RESOURCES

05/11/2005

Water Right Report 34-891A

WATER RIGHT NUMBER: 34-891A

Owner Type                      Name and Address  
 Current Owner                  PENNY R HAWKINS  
    RT 1 BOX 91A  
    MOORE, ID 83255  
    (208)554-3943  
 Current Owner                  PHYLLIS J JONES  
    RT 1 BOX 91-B  
    MOORE, ID 83255  
    (208)554-4833

Priority Date: 05/12/1885

Basis: Decreed

Status: Active

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From      To

5/01 to 10/15

Diversion Rate

0.400 CFS

Annual VolumeTotal Diversion: 0.400 CFSLocation of Point(s) of Diversion

BIG LOST RIVER      NW1/4SE1/4SE1/4      Sec. 4, Twp 05N, Rge 26E, B.M.      BUTTE County

Place of Use      IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
05N	26E	27	31.0	31.0			62.0

Total Acres: 62

Conditions of Approval:

1. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
2. WATER IS DELIVERED THROUGH ISLAND CANAL.
3. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POU PURSUANT TO SECT. 42-1425, IDAHO CODE.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.77 CFS. COMBINED RIGHT NOS.: 34-00028D, 34-00061C, 34-00373C, 34-00892C, 34-00897, 34-00898, 34-02409A AND 34-12034A.
5. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
6. USE OF THIS RIGHT WITH RIGHT NOS. 34-00061C, 34-00373C AND 34-00892C IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 62 ACRES IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 132 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00028D, 34-00061C, 34-00373C, 34-00892C, 34-00897, 34-00898, 34-02409A AND 34-12034A. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 20 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

1. TAYLOR 5/20/1992 NOTICE OF ERROR FLAG NOTICE OF ERROR FLAG TO "D". CLAIM REVERIFIED.
2. JHOAGLAN 8/31/1999 OWNERSHIP CHANGE CHANGED OWNERSHIP PER REQUEST/NCAP TO COURT
3. AJU10-DS 6/9/2000 UPDATE CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.
4. skeen 8/3/2004 12:10:07 PM Water Right Comment: This water right record was updated by decree record from old RightID 200608 to new RightID 382141



## IDAHO DEPARTMENT OF WATER RESOURCES

## Water Right Report 34-891A

Dates and Other Information:

Licensed Date:  
Decreed Date: 2/6/2002  
Water Supply Bank Enrollment Accepted:  
Water Supply Bank Enrollment Removed:  
Enlargement Use Priority Date:  
Enlargement Statute Priority Date:  
State or Federal: S  
Owner Name Connector: OR  
Water District Number: 34  
Generic Max Rate Per Acre:  
Generic Max Volume Per Acre:  
Decree Defendant:  
Decree Plaintiff:  
Civil Case Number: 39576  
Judicial District: FIFTH  
Swan Falls Trust or Nontrust:  
Swan Falls Dismissed:  
DLE Act Number:  
Carey Act Number:  
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		62

Combined Water Rights: 34-373C , 34-891A , 34-892C , 34-61C

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
3.77		132

Combined Water Rights: 34-373C , 34-12034A , 34-2409A , 34-891A , 34-892C ,  
34-897 , 34-898 , 34-61C

Water Supply Bank:

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 34-28D V1

WATER RIGHT NUMBER: 34-28D V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	J WESLEY ANDERSON
Current Owner	PENNY R HAWKINS RT 1 BOX 91A MOORE, ID 83255 (208)554-3943
Current Owner	PHYLLIS J JONES RT 1 BOX 91-B MOORE, ID 83255 (208)554-4833
Original Owner	UTAH MORTGAGE CORP
Directors Report Owner	LLOYD E JENSEN PO BOX 91 MOORE, ID 83255 (208)000-0000
Original Owner	JAMES EARL ANDERSON

Priority Date: 08/31/1884

Basis: Decreed

**Status: Closed**Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

0.800 CFS

Annual VolumeTotal Diversion: 0.800 CFSLocation of Point(s) of Diversion

BIG LOST RIVER NW1/4SE1/4SE1/4 Sec. 4,Twp 05N,Rge 26E, B.M. BUTTE County

Place 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	
05N 26E 22													35.0			35.0	70.0

Total Acres: 70

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHT NOS. 34-00897 AND 34-00898 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 70 ACRES IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF COMBINED TOTAL OF 132 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00061C, 34-00373C, 34-00891A, 34-00892C, 34-00897, 34-00898, 34-02409A AND 34-12034A. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 40 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. WATER IS DELIVERED THROUGH ISLAND CANAL.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.77 CFS. COMBINED RIGHT NOS.: 34-00061C, 34-00373C, 34-00891A, 34-00892C, 34-00897, 34-00898, 34-02409A AND 34-12034A.

Remarks:Comments:

1. MEYER 9/12/1991 COPIED FROM REMARKS TRANS. 598. P/D WEST SIDE AND ISLAND DITCHES.
2. TAYLOR 5/20/1992 NOTICE OF ERROR FLAG NOTICE OF ERROR FLAG TO "D". CLIAM REVERIFIED.
3. CFRITSCH 10/20/1997 COPIED FROM REMARKS 0.17 CFS OF RIGHT NO. 34-00898 IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF RIGHT NOS. 34-00028D, 34-00897 AND 34-00898.
4. JHOAGLAN 8/31/1999 OWNERSHIP CHANGE CHANGED OWNERSHIP PER REQUEST/NCAP TO COURT

IDAHO DEPARTMENT OF WATER RESOURCES  
 Adjudication Recommendation Report **34-28D V1**

Dates and Other Information:

Decreed Date: 12/8/1997  
 Enlargement Use Priority Date:  
 Enlargement Statute Priority Date:  
 Defendant:  
 Plaintiff:  
 Civil Case Number: 39576  
 Judicial District: FIFTH  
 Notice of Error Flag: NO NOTICE - RECOMMENDATION CHANGED  
 State or Federal: S  
 Owner Name Connector: OR  
 Water District Number: 34  
 Generic Max Rate Per Acre:  
 Generic Max Volume Per Acre:  
 Swan Falls Trust or Nontrust:  
 Swan Falls Dismissed:  
 DLE Act Number:  
 Carey Act Number:  
 Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		70

Combined Water Rights: 34-28D , 34-897 , 34-898 , 34-61C

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
3.77		132

Combined Water Rights: 34-373C , 34-28D , 34-12034A , 34-2409A , 34-891A ,  
 34-892C , 34-897 , 34-898 , 34-61C

Water Supply Bank:

## IDAHO DEPARTMENT OF WATER RESOURCES

## Water Right Report 34-61C

WATER RIGHT NUMBER: 34-61C

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PHYLLIS J JONES RT 1 BOX 91-B MOORE, ID 83255 (208)554-4833
Current Owner	PENNY R HAWKINS RT 1 BOX 91A MOORE, ID 83255 (208)554-3943

Priority Date: 08/10/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG LOST RIVER	SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	5/01 to 10/15	0.425 CFS	
	<u>Total Diversion:</u>	0.425 CFS	

Location of Point(s) of Diversion

BIG LOST RIVER NW1/4SE1/4SE1/4 Sec. 4, Twp 05N, Rge 26E, B.M. BUTTE County

Place 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	
05N 26E 27					31.0			31.0									62.0

Total Acres: 62

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHT NOS. 34-00373C, 34-00891A AND 34-00892C IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 62 ACRES IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 132 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00028D, 34-00373C, 34-00891A, 34-00892C, 34-00897, 34-00898, 34-02409A AND 34-12034A. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 21.3 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

2. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

3. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

4. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.77 CFS. COMBINED RIGHT NOS.: 34-00028D, 34-00373C, 34-00891A, 34-00892C, 34-00897, 34-00898, 34-02409A AND 34-12034A.

5. WATER IS DELIVERED THROUGH ISLAND CANAL.

6. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Remarks:Comments:

1. MEYER 9/12/1991 COPIED FROM REMARKS TRANS #428 P/D ISLAND CANAL OR EASTSIDE CANAL | THIS CLAIM REPRESENTS A PORTION OF DECREEED RIGHT 34-00061A. CLAIMING 0.425 OR 21.25 INCHES.
2. TAYLOR 5/20/1992 NOTICE OF ERROR FLAG NOTICE OF ERROR FLAG TO "D". CLAIM REVERIFIED.
3. JHOAGLAN 8/31/1999 OWNERSHIP CHANGE CHANGED OWNERSHIP PER REQUEST/NCAP TO COURT
4. AJU10-DS 6/9/2000 UPDATE CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

IDAHO DEPARTMENT OF WATER RESOURCES  
Water Right Report 34-61C

Dates and Other Information:

Licensed Date:  
 Decreed Date: 5/29/2001  
 Water Supply Bank Enrollment Accepted:  
 Water Supply Bank Enrollment Removed:  
 Enlargement Use Priority Date:  
 Enlargement Statute Priority Date:  
 State or Federal: S  
 Owner Name Connector: OR  
 Water District Number: 34  
 Generic Max Rate Per Acre:  
 Generic Max Volume Per Acre:  
 Decree Defendant:  
 Decree Plaintiff:  
 Civil Case Number: 39576  
 Judicial District: FIFTH  
 Swan Falls Trust or Nontrust:  
 Swan Falls Dismissed:  
 DLE Act Number:  
 Carey Act Number:  
 Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
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62

Combined Water Rights: 34-373C , 34-891A , 34-892C , 34-61C

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
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70

Combined Water Rights: 34-897 , 34-898 , 34-61C

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
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3.77 132

Combined Water Rights: 34-373C , 34-12034A , 34-2409A , 34-891A , 34-892C , 34-897 , 34-898 , 34-61C

Water Supply Bank:

Basin	Sequence	Suffix	Priority Date	Rate(cfs)	Source	Owner(s)
34	28	D	1884-08-31	0.80	BIG LOST RIVER	
34	61	C	1883-08-10	0.43		HAWKINS, PENNY R; JONES, PHYLLIS J
34	373	C	1886-05-12	0.58		
34	891	A	1885-05-12	0.40		
34	892	C	2/1/1902	0.40		
34	897		1896-06-01	0.07		
34	898		1898-06-01	1.30		

3.98

Limited to 3.77 cfs