

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 37-22354

PRIORITY: April 18, 2012

Maximum Diversion Rate: 0.74 CFS
Maximum Diversion Volume: 540.1 AF

It is hereby certified that:

JUDE P & JULIA MANDEVILLE DAMASCO TRUST PO BOX 4589 HAILEY ID 83333

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 27, 2007, and has submitted Proof of Beneficial Use on October 30, 2014. An examination confirms water is diverted from:

SOURCE:
INDIAN CREEK

TRIBUTARY:
BIG WOOD RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
AESTHETIC	01/01 to 12/31	0.74 CFS	475.0 AF
WILDLIFE	01/01 to 12/31	0.74 CFS	475.0 AF
RECREATION	01/01 to 12/31	0.74 CFS	475.0 AF
RECREATION STORAGE	01/01 to 12/31		65.1 AF
WILDLIFE STORAGE	01/01 to 12/31		65.1 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		65.1 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.74 CFS	
AESTHETIC STORAGE	01/01 to 12/31		65.1 AF

LOCATION OF POINT(S) OF DIVERSION:

INDIAN CREEK NE¼SW¼ Sec. 33, Twp 03N, Rge 18E, B.M. BLAINE County

PLACE OF USE: AESTHETIC, AESTHETIC STORAGE, WILDLIFE, WILDLIFE STORAGE, RECREATION, RECREATION STORAGE, AND FIRE PROTECTION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	4					X												
03N	18E	33												X					

CONDITIONS OF APPROVAL

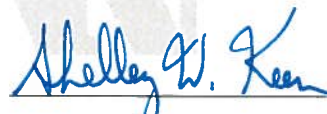
1. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
2. The pond established by the storage of water under this right shall not exceed a total capacity of 3.8 acre-feet or a total surface area of 0.95 acre.
3. This right does not grant any right-of-way or easement across the land of another.
4. Place of use is located within Lots 4, 5, and 6, Blk. 1; Buckhorn Subdivision.

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WATER RIGHT NO. 37-22354

5. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
6. Right 37-22354 authorizes the diversion of 3.8 acre-feet of water to be used for the initial filling of the pond and 61.3 acre-feet for losses due to seepage for a total storage volume of 61.5 acre-feet. Rights 37-297D and 37-20359 provide an additional annual total of 1.3 acre-feet for evaporation losses. When water rights 37-297D, 37-20359, and 37-22354 are combined the total annual storage volume allowed is 62.8 acre-feet.
7. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
8. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion where water is diverted from the Hiawatha Canal for conveyance to the pond.
9. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works at the mouth of Indian Creek where water from Indian Creek discharges into the Hiawatha Canal or at the location of discharge from the pond or both.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 30th day of August, 2016.



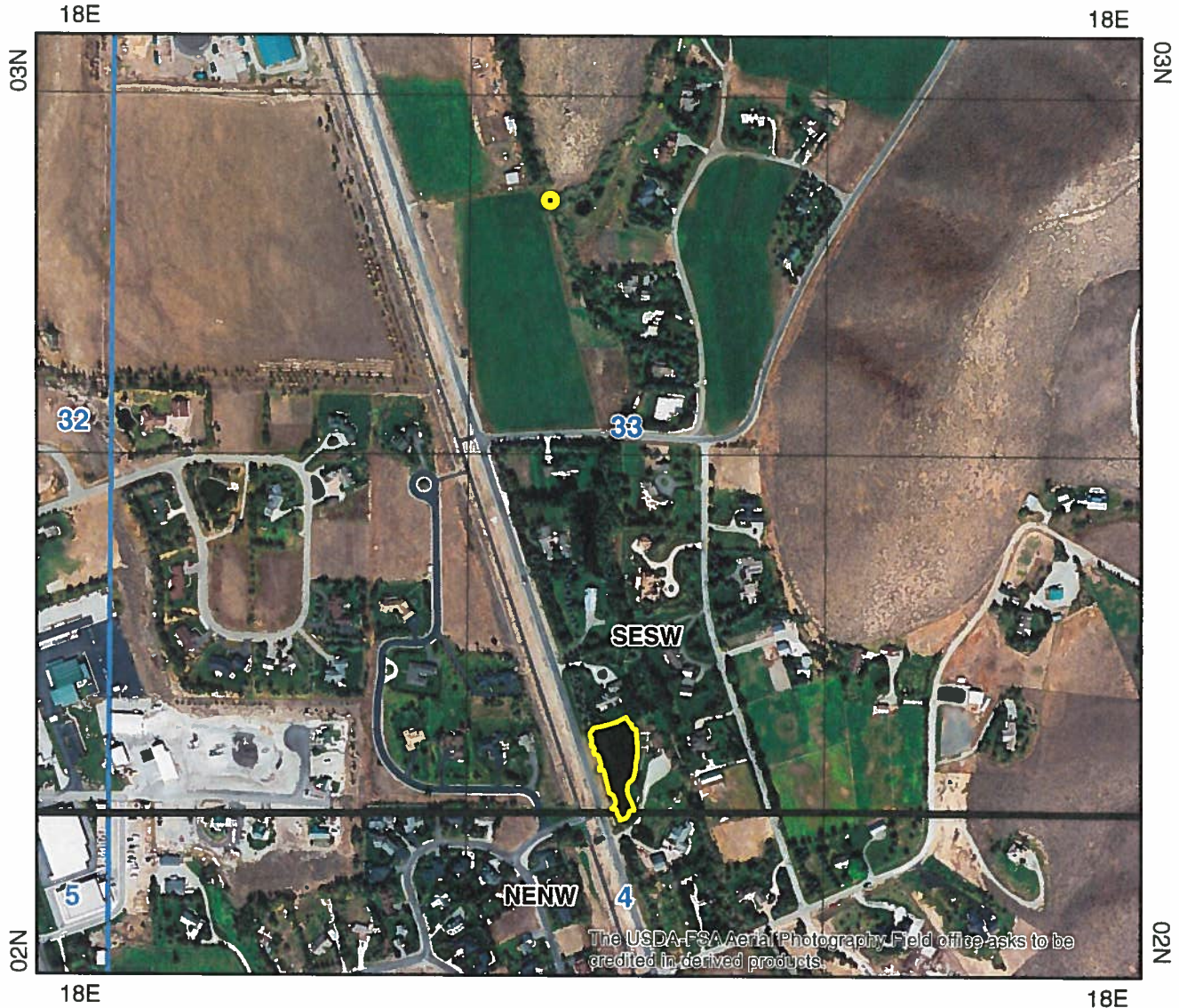
SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources

Attachment To Water Right License

37-22354

This map depicts the AESTHETIC, RECREATION, WILDLIFE, AESTHETIC STORAGE, RECREATION STORAGE, WILDLIFE STORAGE AND FIRE PROTECTION STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 31, 2016

JUDE P & JULIA MANDEVILLE DAMASCO TRUST
PO BOX 4589
HAILEY ID 83333

RE: License No. 37-22354

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license. Also enclosed is an Order Advancing the Priority Date of a Permit to Appropriate Water.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4951.

Sincerely,

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

c: JAMES P SPECK
BROCKWAY ENGINEERING PLLC
WATER DISTRICT # 37

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2016, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 37-22354

**JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340**

**BROCKWAY ENGINEERING PLLC
C/O CHARLES E BROCKWAY
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301**

**JUDE P & JULIA MANDEVILLE DAMASCO TRUST
PO BOX 4589
HAILEY ID 83333**

**WATER DISTRICT # 37
KEVIN D LAKEY
107 W 1ST
SHOSHONE ID 83352**



**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	
NO. 37-22354 IN THE NAME OF	)	ORDER ADVANCING THE
JUDE P. AND JULIA MANDEVILLE	)	PRIORITY DATE OF A PERMIT
DAMASCO TRUST	)	TO APPROPRIATE WATER
_____	)	

This matter having come before the Department of Water Resources (Department) as a result of certified examiner not providing information within the required time, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On September 25, 2012, the Department issued Permit 37-22354 (permit) to Jude P. and Julia Mandeville Damasco Trust (permit holder). The permit authorized the diversion 0.74 cfs of water from Indian Creek for diversion to storage, aesthetic, recreation, and wildlife uses and 73.0 afa for aesthetic storage, recreation storage, wildlife storage, and fire protection storage in a constructed pond in Blaine County, Idaho. As a condition of the approval, the Department required the permit holders to submit proof of construction of works and application of water to beneficial use on or before November 1, 2013.
2. On February 11, 2014, the Department approved an extension of time for submitting the required proof of beneficial use. The new proof of beneficial use deadline was November 1, 2014.
3. On October 30, 2014, the Department received the permit holder's proof of beneficial use statement and a beneficial use field report (field report) from a certified water right examiner.
4. On November 28, 2014, the Department sent the certified water right examiner a letter requesting additional information in support of field report. The letter requested that the information be provided by December 31, 2014.
5. On January 15, 2015, the Department received a response to its November 28, 2014, letter requesting additional information to support the field report.

CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35.02.c (IDAPA 37.03.02.035.02.c) states:

If the Director determines that a field report prepared by a certified water right examiner is acceptable but that additional information is needed to clarify the

field report, he will notify the examiner in writing of the information required. If the additional information is not submitted within thirty (30) days or within the time specified in the written notice, the priority date of the permit will be advanced one (1) day for each day the information submittal is late. Failure to submit the required information within one (1) year of the date of the department's request is cause for the Director to take action to cancel the permit.

2. The information requested to clarify the certified field examiner's field report was submitted fifteen days after the time specified in the Department's written notice. .
3. The Department should advance the priority date for the permit fifteen days to April 18, 2012.

ORDER

IT IS HEREBY ORDERED that the priority date of Permit No. 37-22354 is advanced to April 18, 2012.

Dated this 30th day of August, 2016.



Shelley Keen, Manager
Water Rights Section

MEMORANDUM

TO: Water Right File 37-22354

FROM: Daniel Nelson – Staff Hydrologist

DATE: February 13, 2015

SUBJECT: Licensing Review of Water Right 37-22354

This field exam was performed by Certified Field Examiner Charles E. Brockway of Brockway Engineering. In the field report, Mr. Brockway determined that this permit should be licensed for 0.74 cfs for aesthetic, wildlife, recreation, and diversion to storage and 65.1 af for aesthetic storage, wildlife storage, recreation storage, and fire protection storage. There are a couple of issues that need to be addressed. Each will be addressed below:

Indian Creek Water:

This permit was filed for Indian Creek water that is delivered through the Hiawatha Canal. The Hiawatha Canal has intercepted Indian Creek, since the canal was constructed. However, there are no water rights for Indian Creek below the point where the Hiawatha Canal intercepts Indian Creek. Indian Creek Ranch Owner's Association Inc. and City of Hailey both take water out of Indian Creek, but all of their water rights are upstream of the Hiawatha Canal, and they are all senior to this permit. There are no water rights from Indian Creek diverted out of the Hiawatha Canal other than this permit.

There is concern that a large portion of this water right could use some of the Big Wood River water delivered through the Hiawatha Canal. In Mr. Brockway's January 14, 2015 letter, he provided a table that shows measurements done on Indian Creek during various times of the year by Brockway Engineering, the Basin 37 Watermaster, and the United States Geological Service (USGS). This table shows ten measurements ranging from 8/28/2002 to 3/27/2013. The measurements range from 1.51 cfs (8/27/2012 - USGS) to 3.87 cfs (10/23/2012 - USGS).

With the information provided in the table, it is reasonable to suggest that more water is diverted into the Hiawatha Canal from Indian Creek than the 0.74 cfs being requested from this permit. The measurements were taken between April and October, but they seem to be reasonably stable throughout the year. Most canal companies claim a 30% loss of water delivered through their canal systems. In order to get 0.74 cfs through the Hiawatha Canal with a 30% loss, they would need to divert at least 1.06 cfs into the canal ($0.74 \text{ cfs} / 0.70 = 1.06 \text{ cfs}$). The lowest Indian Creek flows measured were 1.51 cfs, so it is safe to assume they could get the full 0.74 cfs from Indian Creek to the pond. Some of the losses in the canal would be attributed to Big Wood River water during the irrigation season. The highest measurement was performed during the latest month, which suggests that Indian Creek flows fairly consistently all year long.

I recommend that this permit move forward with the assumption that all water diverted under this permit comes from Indian Creek.

Diversion Rate:

In the original field exam, Mr. Brockway suggested that the flows were measured using a time flow method using the owner's installed flow meter. In the letter dated January 12, 2015, Mr. Brockway states that he didn't use a timed measurement of the flow meter and read the flow rate on the meter.

Mr. Brockway did supply a picture of the flow meter in his field report showing the 333 gpm being diverted. This picture confirms the measurement done by Mr. Brockway.

With this clarification of the measurement, I agree with Mr. Brockway's measurement of 333 gpm or 0.74 cfs ($333 \text{ gpm} / 448.8 = 0.74 \text{ cfs}$). I recommend that this permit be licensed for 0.74 cfs.

Volume:

Storage Volume—

Mr. Brockway calculated the storage volume as 65.1 acre feet. The evaporation losses were accounted for by retiring the surface area of the pond under water rights 37-297D and 37-20359. Therefore, there evaporation losses would not be accounted for in this permit.

The seepage losses were estimated at 61.3 acre feet. I ran this system through the Department's pond spreadsheet, and found the same seepage losses as Mr. Brockway's calculations. Mr. Brockway calculated the pond capacity at 3.8 acre feet for a total storage requirement of 65.1 acre feet ($61.3 \text{ af seepage loss} + 3.8 \text{ af pond capacity} = 65.1 \text{ af}$). I agree with these calculations.

Aesthetic, Recreation, and Wildlife Volume –

In the original field exam submitted by Mr. Brockway, he did not include a volume recommendation for the aesthetic, recreation, and wildlife uses. I wrote Mr. Brockway a letter concerning this matter, but he was confusing the storage component with the flow through component allowed by the aesthetic, recreation, and wildlife uses.

I called Mr. Brockway on 2/11/2015 to explain what I needed to determine the volume for the aesthetic, recreation, and wildlife uses. Mr. Brockway responded with an email that states that they divert the 0.74 cfs of Indian Creek water continually all year round. He estimated the volume for the flow through at 534.8 af. This was calculated by multiplying the diversion rate by 1.98 by 365 days a year. Unfortunately, he didn't remove the storage volume from this volume calculation and he didn't use the full conversion factor used by the Department. Therefore, the aesthetic, recreation, and wildlife volume should be 475 af ($[0.74 \text{ cfs} \times 1.9835 \times 365 \text{ days}] - 61.5 = 474.6485 \text{ af}$). I recommend the aesthetic, recreation, and wildlife uses be licensed for a volume of 475 af.

The total volume recommended for this license is 540.1 af.

Ownership:

This permit was filed for and owned by Jude P. and Julian Mandeville Damasco Trust (Damasco). Damasco has supplied all of the needed information and provided proof where needed.

Point of Diversion Ownership –

The point of diversion is a headgate that diverts Indian Creek into the Hiawatha Canal. The land is owned by Indian Creek Ranch Homeowner's Association (ICRHA), and the Hiawatha Canal has an easement through the ICRHA property. On the application for permit, Damasco gives their authority to divert Indian Creek as being a member of the Hiawatha Canal. The permit file shows that ICRHA protested the application on 10/2/2008, but they protested for reasons other than the point of diversion location. The ICRHA withdrew their protest on 2/28/2012, so it is safe to assume that ICRHA concurs that the canal easement gives Damasco authority to divert water from Indian Creek into the Hiawatha Canal.

A letter from the Hiawatha Canal dated 7/18/2013 in the permit file, states that Hiawatha has agreed to carry the Indian Creek water for a conveyance fee. However, Hiawatha claims no responsibility for any of the ditches that carry water from the canal to the pond and from the pond. The Canal Company states that it will be Damasco's responsibility to maintain those ditches, and to maintain the Hiawatha Canal during the winter months.

I feel that there is adequate notification to parties to ensure that Damasco has attained all of the agreements necessary to divert water and deliver it through the Hiawatha Canal.

Place of Use:

The place of use for this permit or the pond is located on 3 different tax lots with three separate owners. The permit states that an agreement between these owners was pending, but the field exam states that there is an existing agreement between the owners. There are no copies of any agreements between other parties in this file. Even if the agreements are not in place, the other lot owners could file a change of ownership for their portion of the permit if necessary.

Conclusion:

The ownership issues for the point of diversion, place of use, and conveyance through the Hiawatha Canal appear to be in place. My only concern is that there are no agreements or plans on how the water will be transported through the laterals from the canal to the pond and from the pond. In reading through the permit file, there is no mention of the secondary conveyance systems other than Hiawatha Canal Company's disclaimer in their 7/18/2013 letter that they carry no responsibility for these private laterals.

I was unable to determine if these private laterals have a formal lateral users association. Without a lateral users association, there would be no one that the Department could contact for formal comment. The Department did advertise this permit allowing those on those laterals to comment or protest the application for permit, but there were no protests received. The Department generally states in these matters that the water right does not grant an easement across the land of another. We don't currently have any conditions that address this matter, so it appears as though the Department should issue this license without further conditioning beyond what was on the permit concerning ownership issues and easements.

Overlap:

There are no other Indian Creek water rights that directly overlap this permit. All of the Indian Creek water rights are upstream and have senior priority dates. Water rights 37-297D and 37-20359 from the big wood river do overlap this permit. Water right transfer 73743 changed 0.04 cfs, 1.3 af, and 0.95 acres of these water rights into aesthetic storage, recreation storage, and wildlife storage to account for the evaporation losses for the pond associated with this permit. These water rights also allow an additional 0.06 cfs to be diverted through this same system for the irrigation of 1.1 acres. These water rights allow a total of 0.12 cfs, 1.3 af of storage, and 1.1 acres of irrigation. The permit states that water rights 37-28C and 37-297C are diverted into the pond and out of the pond for irrigation purposes. Water rights 37-28C and 37-297C are also diverted into the pond and taken out for irrigation of Lot 4, Buckhorn Subdivision. Water rights 37-28C and 37-297C allow the irrigation of 0.10 cfs for 2 acres in Lot 4, Buckhorn Subdivision. Lot 6, Buckhorn Subdivision also has a portion of the pond located on its property, but according to the permit, they divert their irrigation water someplace other than the pond. Lot 6, Buckhorn Subdivision is covered by water rights 37-28B and 37-297G that allow 0.12 cfs to irrigate 2 acres.

Per a telephone conversation with Mr. Brockway (see telephone memo dated 2/11/2015), the system has the capacity to deliver the Big Wood Irrigation Rights and the 0.74 cfs allowed by this permit. The diversion rates and volumes of the water rights being diverted to this system are additive, so no combined limitation condition should be needed. There are no other conditions that should be needed for other water rights in the Hiawatha Canal or on Indian Creek. The senior priority dates of the existing water rights and the fact that this permits diverts the water at the point where it enters the Hiawatha Canal prevent any issues with regulating the existing rights on Indian Creek.

Advancement of Priority Date:

On November 28, 2014, I sent a letter to Mr. Brockway requesting additional information. The letter included a citation from the Idaho Beneficial Use Examination Rules 37.03.02.035.02.c that states:

If the Director determines that a field report prepared by a certified water right examiner is acceptable but that additional information is needed to clarify the field report, he will notify the examiner in writing of the information required. If the additional information is not submitted within thirty (30) days or within the time specified in the written notice, the priority date of the permit will be advanced one (1) day for each day the information submittal is late. Failure to submit the required information within one (1) year of the date of the department's request is cause for the Director to take action to cancel the permit.

This letter also stated that the information would be due on December 31, 2014. The response to this letter was received on January 15, 2015 or 15 days after the required response. An order will be issued with this permit extending the priority date 15 days or to April 18, 2012.

Additional information requests were made, after the November 28, 2014 letter, but responses to those letters were received within the 30 days from the time each request was made. Therefore, the priority date should only be extended the 15 days for the first information request. The order for extending the priority date will be sent at the same time the license is issued.

Conditions:

Most of the conditions were carried through to licensing. Condition 2 was changed to a modified version of condition 259. Condition 7 was split into a two conditions that were modified versions of conditions R43 and 01R. Condition 8 was changed to R55.

Nelson, Dan

From: Charles E. Brockway [charles.e.brockway@brockwayeng.com]
Sent: Wednesday, February 11, 2015 1:51 PM
To: Nelson, Dan
Cc: 'Julia Damasco'; 'Jude Damasco'; 'Zach Latham'
Subject: Damasco Field Exam Report

In your telephone call on February 11, 2015 you indicated that you still needed information on the water use for the Damasco pond water right permit 37-221354. As I understand, you require the estimated annual flow through the pond from the Indian Creek source for aesthetic, recreation, and wildlife use.

The Indian Creek water is conveyed by the Hiawatha Canal and through a lateral flowing adjacent to the pond. A controllable diversion structure diverts water from the lateral through a pipeline to the pond. This structure has a hydraulic capacity which exceeds the 0.74 cfs allowed under permit 37-221354 because it also diverts water conveyed by the Hiawatha Canal from the Big Wood River under an irrigation water right owned by Damascos.

The Indian Creek water(0.74 cfs or 333 gpm) is diverted for aesthetic, recreation, and wildlife use continuously throughout the year.

The total annual use is therefore 534.8 acre feet($0.74 \times 1.98 \times 365$) for aesthetic, recreation, and wildlife use.

If you need more information, please call.

Charles E. Brockway P.E. PhD.

MEMORANDUM

TO: Water Right File 37-11354

FROM: Daniel Nelson – Staff Hydrologist

DATE: February 11, 2015

SUBJECT: Telephone Conversation with Charles E. Brockway

I spoke today with Charles E. Brockway concerning the volume for the aesthetic, wildlife, and recreation uses for water right 37-11354. I sent a letter to Mr. Brockway requesting a volume for these uses per the certified field examiner exam he submitted for this water right. Mr. Brockway was confused on how to calculate the volume for the flow through component for these water rights.

Instead of writing another letter, I felt it would be beneficial to speak with Mr. Brockway and inform him on what is actually needed. During the telephone call, I informed Mr. Brockway, that we needed the volume of water flowing through the pond. This water would only be the Indian Creek water and would not include any Big Wood River water delivered from the canal.

Mr. Brockway informed me that they have the capacity in the system to run the full 0.74 cfs plus the Big Wood River irrigation rights through the system to the pond. Therefore, the water flowing through the pond would only be Indian Creek water, since the Big Wood River water would be diverted out of the pond for irrigation purposes.

I told Mr. Brockway that he would need to calculate the total amount of Indian Creek water diverted to the pond in a year and minus the storage volume of 61.5 acre feet recommended in the permit. The storage volume covers the pond capacity, seepage and evaporation uses from the pond.

Mr. Brockway told me he would calculate that volume and send it to me in an email or a letter.



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JAN 16 2015

DEPARTMENT OF
WATER RESOURCES

January 14, 2015

Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Field Exam Report Water Right Permit 37-22354 Damasco Trust
Additional Indian Creek Discharge Data

Dear Dan:

In my letter of January 12, 2015, I referred to Table 1 which is a compilation of discharge measurements on Indian Creek and I forgot to include Table 1 in the letter. This compilation includes miscellaneous measurements made by the Watermaster, USGS, and Brockway Engineering. As far as I can tell these are the only published measurements available at this time. In my opinion, they collectively show that the flow of Indian Creek at the mouth into the Hiawatha Canal will be greater than the 0.74 cfs allowed under permit 37-22354 and the permitted discharge should be licensed.

Sorry for the failure to include this table in my previous letter

Please let me know if this provides the additional information which you requested



Charles E. Brockway P.E. PhD.

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Enclosure: Table 1
Cc: Jude and Julia Damasco
Jim Speck
Kevin Lakey

TABLE 1

INDIAN CREEK DISCHARGE MEASUREMENTS				
BROCKWAY ENGINEERING, PLLC				
ALR - 1/14/15				
<u>NUMBER</u>	<u>DATE</u>	<u>MEASURED BY</u>	<u>LOCATION</u>	<u>DISCHARGE (CFS)</u>
1	8/28/2002	BROCKWAY ENG.	REHAB'D DITCH TO UPPER FIELD 200'+/- D/S OF DIVERSION GATE	2.39
2	4/11/2008	WATER MASTER DIST. 37	INDIAN CREEK AT MOUTH	3.03
3	5/19/2008	BROCKWAY ENG.	FLOW D/S OF SPRINGS & CITY OF HAILEY TAKE OUT	2.25
4	5/19/2008	BROCKWAY ENG.	FLOW INTO INDIAN CREEK UPPER POND	2.88
5	5/19/2008	BROCKWAY ENG.	FLOW D/S OF INDIAN CREEK POND APPROX 600'	3.46
6	5/19/2008	BROCKWAY ENG.	FLOW IN INDIAN CREEK 309'+/- U/S OF CONFLUENCE WITH HIAWATHA	2.77
7	6/6/2008	WATER MASTER DIST. 37	INDIAN CREEK AT MOUTH	2.93
8	8/27/2012	USGS	INDIAN CREEK ABV HIAWATH CANAL	1.51
9	10/23/2012	USGS	INDIAN CREEK ABV HIAWATH CANAL	3.87
10	3/27/2013	USGS	INDIAN CREEK ABV HIAWATH CANAL	3.41



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JAN 15 2015

DEPARTMENT OF
WATER RESOURCES

January 12, 2015

Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Field Exam Report Water Right Permit 37-22354 Damasco Trust

Dear Dan:

This letter is in response to your August 6, 2014 letter requesting additional information relative to the Beneficial Use Field Report for water right permit 37-22354, in the name of Jude P. and Julia Mandeville Damasco Trust.

You requested additional information on the flow measurement from the lateral into the pond which I made using the newly installed Seametrics AG2000 magnetic flowmeter. I did state in paragraph D2 of the report that the measurement was 'timed' and the measured discharge was 333 gpm. The use of the word "timed" is, perhaps, a misnomer leading one to believe that the volume as indicated on the integrator or the meter was timed between volume measurements and the resulting discharge calculated. In fact, the discharge from the meter was observed for a significant period of time to assure that it was constant and then the discharge was observed. This is a brand new meter which meets the IDWR criteria and the inflow was constant so I did not believe that a measurement using differential timed volume was necessary. The flow measurement was performed by me at the inlet from the Hiawatha lateral to the pond in the SESESW Section 33 T.3N R.18E at approximately 12:45pm on October 13, 2014.

As I indicated in the narrative accompanying the Field Exam, the volume of the pond as calculated from as-built cross sections is 3.78 acre feet and the estimated volume to account for seepage is based on an estimated annual average seepage rate of 0.2 af/ac/day for the 0.84 acre pond for 365 days or 61.3 acre feet per year. The total pond volume is therefore $61.3 + 3.78 = 65.1$ acre feet. My understanding from discussions with Shelly Keen is that this is the required method of calculating the combined volume for recreation, fire protection, aesthetics and wildlife uses. It is not possible to determine the percentage of the total volume that is attributable to each of the beneficial uses since the entire pond is utilized for all of the beneficial uses. These estimates

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of total volume are not based on annual diversion volume or measured actual beneficial use as appears to be required under the Rules; IDAPA 37.03.02.035.j mainly because the pond, as modified, has not been in use for 12 months and determination of the seasonal seepage rates has not been performed. This determination would require significant effort and expense and would likely not yield any additional data that would be necessary for proper administration of the water right.

As indicated in the narrative accompanying the application for permit 37-22354, this permit lists Indian Creek as the source for the period 1/1 through 12/31. All of Indian Creek flows into the Hiawatha Canal year around and, in the non-irrigation season, the only water available in the Hiawatha Canal and in the lateral from which the 0.74 cfs of water under 37-22354 is diverted and is Indian Creek Water. During the irrigation season, up to 30 or 40 cfs of water from Big Wood River is diverted into the Hiawatha Canal and Indian Creek Water is comingled with the Big Wood River Water. Irrigation diversion authorized by water rights 37-397D and 37-20359 is pumped from the pond to irrigate the authorized 1.1 acres on the Damasco property. In addition, irrigation water is pumped from the pond by the neighbor. Evaporation from the pond is mitigated by the reduction in irrigated area applicable to water rights 37-397D and 37-20359 as outlined in these respective water rights.

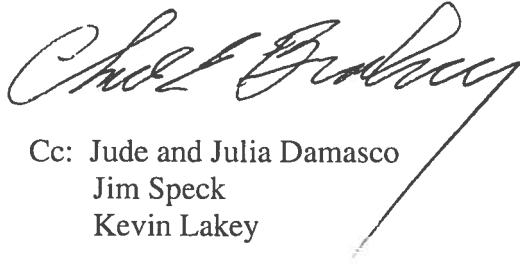
Since water right 37-22354, owned by the Damascos, is the only right in the Hiawatha Canal which lists the source as Indian Creek, water right 37-22354 is entitled to all of the flow in the lateral up to 0.74 cfs in the non-irrigation season. Similarly, during the irrigation season, water right 37-22354 is entitled to divert up to 0.74 cfs for recreation, aesthetic, and wildlife purposes plus 0.08 cfs under water rights 37-397D and 37-20359 for irrigation and diversion to storage from the Big Wood River.

I realize that it is necessary for IDWR to be assured that the basis for the recommendation in the field report is for Indian Creek water and not Big Wood water being conveyed into the Damasco pond and out of the Damasco pond. In the non-irrigation season, the only water in the Hiawatha canal and lateral is from Indian Creek so there can be no concern about Big Wood River water being diverted into the pond. During the irrigation season, as long as there is 0.74 cfs of water flowing from Indian Creek into the Hiawatha, there can be no Big Wood River water diverted for this water right as long as the diversion rate does not exceed 0.82 cfs. Since the Indian Creek water and Big Wood River is comingled in the Hiawatha Canal it is not possible to

determine which water is being diverted, red water or blue water. For this reason and other reasons the requirement for a water measuring device at the mouth of Indian Creek was not deemed necessary by Kevin Lakey, Watermaster District 37 and that requirement was waived. Mr. Lakey has provided some miscellaneous flow measurements at the mouth of Indian Creek as shown in Table 1. Also, a long-time resident of Indian Creek Subdivision, Jim Baldwin, who lives near the mouth of Indian Creek, has stated that the flow of Indian Creek, in his opinion, has not dropped below about 1.0 cfs during his memory.

Please let me know if this provides the additional information which you requested.

Charles E. Brockway P.E. PhD.



Cc: Jude and Julia Damasco
Jim Speck
Kevin Lakey