

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-08838

Priority: August 25, 1999

Maximum Diversion Rate: 2.50 CFS
Maximum Diversion Volume: 7.3 AF

It is hereby certified that STEVEN D HOLZMAN TRUST DTD 3/27/03
C/O JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated April 08, 1994; and has submitted Proof of
Beneficial Use on August 25, 1999. An examination confirms water is diverted from:

SOURCE

BIG WOOD RIVER

Tributary: MALAD 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>
WILDLIFE STORAGE	01/01 to 12/31		7.3 AF
AESTHETIC STORAGE	01/01 to 12/31		7.3 AF
DIVERSION TO STORAGE	01/01 to 12/31	2.50 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER	NE1/4SE1/4	Sec. 6,	Twp 03N,	Rge 18E, B.M.	BLAINE County
BIG WOOD RIVER	NE1/4SE1/4	Sec. 6,	Twp 03N,	Rge 18E, B.M.	BLAINE County

PLACE OF USE: AESTHETIC STORAGE AND WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N 18E 7				X													

CONDITIONS OF APPROVAL

1. The ponds and ditches constructed under this right must be lined with either a man-made liner or an amended soil liner to minimize seepage loss.
2. 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.
3. This right does not grant any right-of-way or easement across the land of another.
4. The right holder shall maintain a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
5. Points of diversion known locally as R-11 and R-11A are located within Lot 6A and Lot 7 of Gimlet Subdivision #1 Revised.

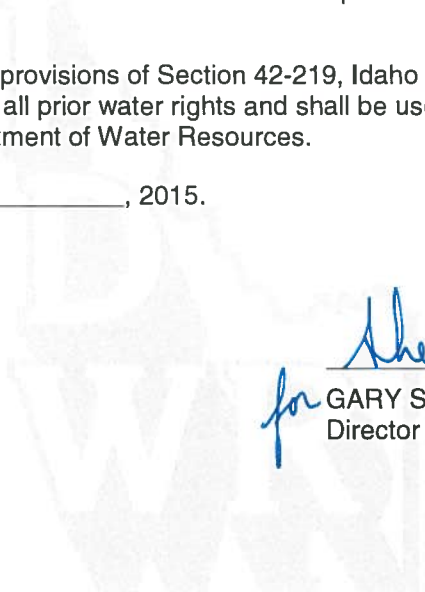
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-08838

6. The following rights are diverted through points of diversion described above: 37-154B, 37-310B, 37-21329, 37-21330, 37-23331, and 37-21332 .
7. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
8. 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.

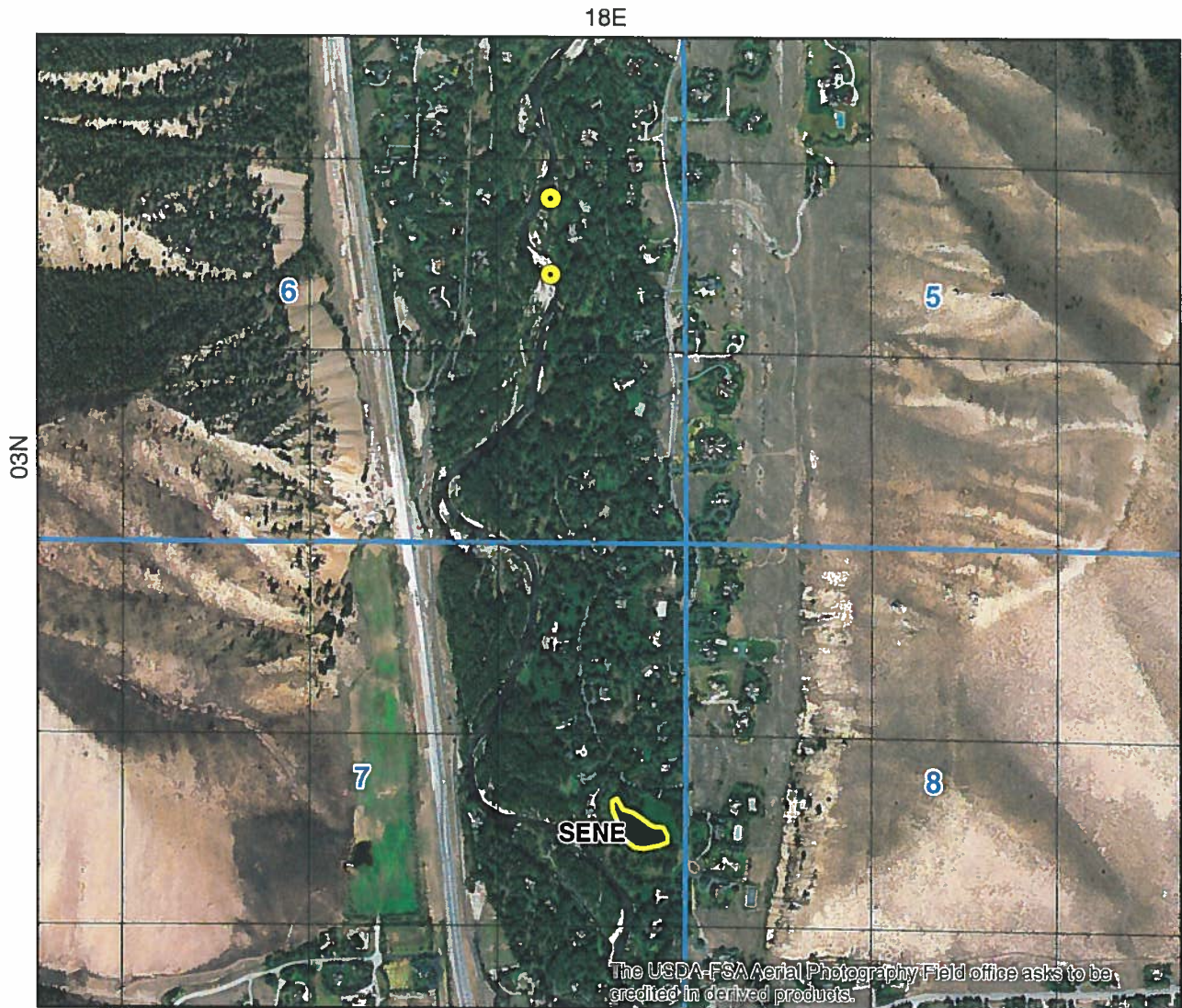
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 1st day of May, 2015.


Shelley W. Keen
for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
37-8838

This map depicts the AESTHETIC STORAGE and WILDLIFE 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 0.15 0.3 0.6 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

May 4, 2015

STEVEN D HOLZMAN TRUST DTD 3/27/03
C/O JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

RE: License No. 37-8838

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.

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: WATER DISTRICT #37

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2015, 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. 37-8838

**STEVEN D HOLZMAN TRUST DTD 3/27/03
C/O JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340**

**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.

MEMORANDUM

TO: File 37-8850

FROM: Daniel Nelson – Staff Hydrologist

DATE: March 24, 2015

SUBJECT: Licensing Review for 37-8850

This is the licensing review of the field exam submitted by certified field examiner Charles E. Brockway. This field exam was received on August 25, 1999, but was held until the associated consumptive use rights were decreed in the Snake River Basin Adjudication (SRBA). The following is my review of the permit.

Mitigation:

This permit was originally filed for 9.6 af for Wildlife storage and Aesthetic storage and 2.50 cfs for Diversion to Storage. The storage component only represented the capacity or one time fill of the pond. Water right 37-154D and 37-577BT were going to cover the evaporation losses. The pond was approved with a condition that required the pond to be lined to minimize seepage. Transfer 4520 was filed to change a portion of water rights 37-154D and 37-577BP. During the transfer process, the water right numbers were changed to 37-154D and 37-30029. The transfer was subsequently approved.

The field examination from the certified examiner was received after the approval of transfer 4520. The owner petitioned the Department to amend the transfer to reduce the amount of water needed for evaporation for the size of pond found in the certified field examiner's field report. An order was issued to amend the transfer to match the field examiner's report on April 29, 2004.

Water right 37-30029 was disallowed in the SRBA, because it had not been claimed. The owner of the property then filed water right transfer 71412. This transfer changed water rights 37-154D and 37-1426B to cover the seepage and evaporation losses for permit 37-8838. The same water uses were retained on this transfer. The only difference between transfer 71412 and 4520 was the replacement of water right 37-30029 with 37-1426B. The new water right numbers assigned to cover the evaporation by transfer 71412 are 37-21329 and 37-21331.

The evaporation for this permit has been reviewed and approved twice in two separate transfers. Therefore, the storage components for this permit will only reflect the pond capacity or one time fill.

Diversion Rate:

The certified examiner found that a diversion rate of 21.93 cfs at the time he was at the property, however, the water district found that on that same day, only a combined total of 4.44 cfs had been diverted through the two points of diversion. I reviewed the water district records during the development period for this permit, and I found that on May 12, 1997 a combined total of 31.44 cfs had been diverted through the two points of diversion.

I then performed an analysis of the rights allowed to be diverted through the points of diversion, and I found that the maximum allowed to be diverted through these two points of diversion was 3.66 cfs, which included the 2.50 cfs allowed by this permit. There is proof that more than enough water has been diverted through this system to supply the full amount of this permit. The field examiner used the installed measurement devices on the system to determine the flow actually going to the pond, and he recorded 1136 gpm or 2.53 cfs. The flow rates at the points of diversion and at the pond show that this system did divert maximum of 2.50 cfs allowed by the permit. Therefore, I am recommending that this permit be licensed for 2.50 cfs for diversion to storage.

Volume:

The field examiner used a licensed surveyor to determine the area of the pond and the depth of the pond. The capacity of the pond using the area and depth found by the surveyor was 7.3 af. A survey by a licensed surveyor is more than adequate proof of the pond capacity. Therefore, I am recommending that the aesthetic storage and recreational storage be limited to the 7.3 af the surveyor determined. As stated above the evaporation losses are covered under water rights 37-21329 and 37-21331.

Point of Diversion:

The face of the permit only lists one legal description for the point of diversion. There is a condition in the permit that states that there are two points of diversion at the same legal description. The points of diversion are known by the water district as diversions R11 and R11A.

Conditions:

Condition 26A was removed at licensing. All of the remaining conditions on the permit were carried forward to licensing after being upgraded to current conditions. Condition R55 was added since this is a water right within a trust water area. It was not placed on the permit because it was a non-consumptive right, but it needs to be included on the license.

No combined limitations are needed, because the system can adequately handle all of the water rights that are allowed to divert through the two points of diversion. The field examiner measured the flow through the pipeline from the ditch to the pond at a lower rate than the combined diversion rates of this permit and the existing water rights used for mitigation. However, the field examiner measured the flows at a time when the flows in the ditch were extremely low. I feel that when the ditch is at capacity, the flows into the pond through the pipeline would increase. The difference between the combined use of the three rights and measurement was 0.06 cfs, which could easily be covered if the ditch had been full at the time of the measurement.

Water Right Number	Right Rate	Total Rate Allowed Using Combined Rates
37-154B	0.44	0.44
37-310B	0.40	0.40
37-21330	0.16	0.23
37-21332	0.07	
37-21329*	0.06	0.09
37-21331*	0.03	
Total Allowed at POD		1.16

* Denotes the rights used to cover the consumptive use (Evaporation and Seepage) for this pond.

37-838 Recommended Rate	2.5
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Rate Recorded at PODs	31.44
Amount Allowed at PODs	3.66
Amount Diverted in Excess of Permit and Licensed Rights	27.78

Permit 37-8838

Point of Diversion Overlap

By Dan Nelson

The amount diverted at the R11 and R11A field headgates in 1997 and 1999 far exceeds the diversion rate needed to supply all of the existing water rights and the permit that are diverted from that point of diversion. There was adequate water during the development period to supply this permit.

M78 & WATER DISTRICT 37 & 37M

WATER DISTRICT 37 & 37M							
CANAL NAME		RINKER		CANAL NO.		11 1997	
OWNER	HARRY RINKER & SOUTH GIMLET			3' opening			
DATE	APRIL	MAY	JUNE	JULY	AUG	SEPT	DATE
1	4.00	4.00	0.64	6.04		3.04	1
2	4.00	3.78	2.94	6.04		3.04	2
3	4.00	3.78	2.94	6.04		3.68	3
4	4.00	4.24	4.12	6.04		3.68	4
5	4.00	4.24	4.12	6.04		3.58	5
6	4.00	4.24	4.46	6.04		3.58	6
7	4.00	4.24	4.46	6.30		3.58	7
8	4.00		4.46	6.30		3.36	8
9	4.00		4.00	5.30		3.36	9
10	4.00		4.00	5.30		3.24	10
11	4.00		4.12	4.46		3.24	11
12	4.00	4.12	4.12	4.46		4.00	12
13	4.00	4.12	3.78	4.46		4.00	13
14	4.00	3.04	3.78	3.26		4.00	14
15	4.00	3.04	3.78	3.26	4.34	3.78	15
16	4.00	2.56	3.26	3.58	4.34	3.78	16
17	4.00	2.56	3.26	3.58	4.34	3.58	17
18	4.70	2.56	3.58	2.56	3.90	3.58	18
19	4.70	2.56	3.58	2.56	3.90	0.46	19
20	4.70	2.56	2.68	2.56	3.78	3.46	20
21	4.70	2.66	2.68	1.74	3.78	3.46	21
22	4.70	2.66	2.68	1.74	4.12	3.16	22
23	4.70	2.56	1.04	1.26	4.12	3.16	23
24	4.70	2.56	1.04	1.26	4.12	3.04	24
25	3.58	2.56		1.12	3.58	3.04	25
26	3.58	1.66		1.12	3.58	2.94	26
27	3.58	1.66	4.34	1.12	3.16	2.94	27
28	4.12	0.52	4.34	0.64	3.16	2.94	28
29	4.12	0.52	4.34	0.64	3.04	2.74	29
30	4.00	0.64	6.04	0.52	3.04	2.74	30
31		0.64		0.52	3.04		31
TOTAL	123.88	74.28	98.58	105.86	63.34	98.18	

YEARLY C F S

564

YEARLY ACRE FEET

1117

TOTAL NO OF DAYS

163

YEARLY MEAN

03

WATER DISTRICT 37 & 37M

CANAL NAME	RINKER			CANAL NO. 11-A			1997
OWNER	HARRY RINKER & SOUTH GIMLET						
DATE	APRIL	MAY	JUNE	JULY	AUG	SEPT	DATE
1	13.74	5.54	13.36	3.72	8.52	1.06	1
2	13.74	22.30	11.90	3.02	8.52	1.06	2
3	11.90	22.30	11.90	3.02	8.52	2.16	3
4	11.90	22.30	10.16	3.02	4.98	2.16	4
5	11.90	25.00	10.16	3.02	4.98	1.06	5
6	11.90	25.00	8.52	3.02	6.98	1.06	6
7	11.90	27.80	8.52	4.20	6.98	1.06	7
8	11.90	27.80	8.52	4.20	4.72	11.54	8
9	11.90		8.52	3.72	4.72	11.54	9
10	11.90		8.52	3.72	4.72	10.50	10
11	11.90		6.98	3.02	11.90	10.50	11
12	11.90	27.32	6.98	3.02	11.90	19.72	12
13	11.90	27.32	6.68	3.02	10.84	19.72	13
14	11.90	19.72	6.68	1.40	10.84	19.72	14
15	11.90	19.72	6.68	1.40	5.82	11.90	15
16	13.36	19.72	6.10	1.96	5.82	11.90	16
17	13.36	19.72	6.10	1.96	5.82	11.54	17
18	15.64	19.72	6.98	1.06	3.02	11.54	18
19	15.64	19.72	6.98	1.06	3.02	10.50	19
20	15.64	19.72	4.74	1.06	1.96	10.50	20
21	18.88	7.28	4.74		1.96	10.50	21
22	18.88	7.28	4.74		1.06	9.82	22
23	18.88	17.64	5.26	12.62	1.06	9.82	23
24	18.88	17.64	5.26	12.62	1.06	9.50	24
25	8.84	17.64	3.96	11.90	2.16	9.50	25
26	8.84	15.10	3.96	11.90	2.16	9.16	26
27	8.84	15.10	4.20	11.90	1.40	9.16	27
28	7.28	11.54	4.20	9.82	1.40	9.16	28
29	7.28	11.54	4.20	9.82	1.06	8.52	29
30	5.54	13.36	3.72	10.52	1.06	8.52	30
31		13.36		10.52	1.06		31
TOTAL	377.96	518.20	209.22	155.24	150.02	274.40	
YEARLY C F S				1685			
YEARLY ACRE FEET				3336			
TOTAL NO OF DAYS				178			
YEARLY MEAN				9			

WATER DISTRICT 37 & 37M

WATER DISTRICT 37 & 37M							
CANAL NAME		RINKER		CANAL NO.		11 1999	
OWNER	GEORGE CARR & SO GIMLET						
DATE	APRIL	MAY	JUNE	JULY	AUG	SEPT	DATE
1		2.10	3.04	1.58	2.10	1.26	1
2	1.00	2.10	2.94	1.42	2.10	1.26	2
3	1.00	2.28	2.94	1.42	2.10	1.26	3
4	1.00	2.28	3.04	1.42	1.92	1.26	4
5	1.00	2.10	3.04	1.42	1.92	1.26	5
6	1.00	2.10	3.04	1.42	1.74	1.26	6
7	1.00	2.10	2.80	3.26	1.74	1.26	7
8	1.00	2.10	2.80	3.26	1.74	1.26	8
9	1.00	2.10	1.92	3.04	1.66	1.26	9
10	1.00	2.00	1.92	3.04	1.66	1.12	10
11	1.00	2.00	1.34	3.04	1.12	1.12	11
12	1.00	2.00	1.34	3.04	1.12	1.12	12
13	1.00	2.00	1.34	3.04	1.66	1.12	13
14	1.00	1.58	1.42	2.84	1.66	1.12	14
15	1.00	1.58	1.42	2.84	1.66	1.04	15
16		1.58	2.00	2.66	1.58	1.04	16
17		1.06	2.00	2.66	1.58	2.36	17
18		1.06	3.04	2.66	1.50	2.36	18
19		1.82	3.04	3.04	1.50	2.36	19
20		1.82	3.04	3.04	1.50	3.04	20
21		3.04	3.04	2.84	1.50	3.04	21
22		3.04	3.04	2.84	1.50	3.04	22
23		3.04	2.84	2.74	1.42	3.04	23
24		3.26	2.84	2.74	1.42	2.84	24
25		3.26	2.74	2.56	1.42	2.84	25
26		3.58	2.74	2.56	1.42	3.04	26
27		3.58	2.74	2.56	1.26	3.04	27
28		3.26	1.92	2.36		3.04	28
29		3.26	1.92	2.36		3.04	29
30	2.10	3.26	1.58	2.10		3.04	30
31		3.04		2.10			31
TOTAL	16.10	73.38	72.86	77.90	43.50	59.14	

YEARLY C F S 343
 YEARLY ACRE FEET 679
 TOTAL NO OF DAYS 164
 YEARLY MEAN 2

WATER DISTRICT 37 & 37M

CANAL NAME	RINKER	CANAL NO.	11-A	1999
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OWNER HARRY RINKER & SOUTH GIMLET

DATE	APRIL	MAY	JUNE	JULY	AUG	SEPT	DATE
1		8.20	7.66	3.24	6.98	2.16	1
2	3.02	8.20	7.28	3.02	5.54	2.16	2
3	3.02	8.52	7.28	3.02	5.54	5.54	3
4	3.02	8.52	7.58	3.02	5.54	5.54	4
5	3.02	10.16	7.58	3.02	5.54	5.54	5
6	3.02	10.16	7.58	3.02	5.54	5.54	6
7	3.02	10.50	6.98	2.75	5.54	5.54	7
8	3.02	10.50	6.98	2.75	5.54	4.72	8
9	3.02	10.50	6.38	2.36	4.98	4.72	9
10	3.02	10.16	6.38	2.36	4.98	3.96	10
11	3.02	10.16	5.45	2.36	4.20	3.96	11
12	3.02	10.16	5.45	8.52	4.20	3.96	12
13	3.02	10.16	5.45	8.52	4.20	3.96	13
14	3.02	9.82	5.82	8.52	4.20	3.96	14
15	3.02	9.82	5.82	8.52	4.20	3.72	15
16	6.38	9.82	8.52	6.98	3.72	3.72	16
17	6.38	8.52	8.52	6.98	3.72	3.72	17
18	6.38	8.52	3.04	6.98	3.02	3.72	18
19	6.98	10.16	3.04	6.38	3.02	3.72	19
20	6.98	10.16	3.04	6.38	3.02	3.24	20
21	7.88	12.26	5.45	5.54	3.02	3.24	21
22	7.88	12.26	5.45	5.54	3.02	3.24	22
23	6.98	12.26	4.98	4.98	3.02	3.24	23
24	6.98	13.36	4.98	4.98	3.02	3.02	24
25	6.98	13.36	4.46	4.98	2.78	3.02	25
26	8.20	14.88	4.46	4.20	2.78	3.02	26
27	8.20	14.88	4.46	4.20	2.16	3.48	27
28	8.20	10.16	3.48	3.72	2.16	3.48	28
29	8.20	10.16	3.48	3.72	2.16	3.48	29
30	8.20	10.16	3.24	6.98	2.16	3.48	30
31		7.66		6.98	2.16		31
TOTAL	153.08	324.12	170.27	154.52	121.66	115.80	

YEARLY C F S	1039
YEARLY ACRE FEET	2058
TOTAL NO OF DAYS	182
YEARLY MEAN	6