

State of Idaho
Department of Water Resources
Water Right License

AMENDED

AMENDED

WATER RIGHT NO. 37-21176

Priority: September 11, 2003

Maximum Diversion Rate: 0.68 CFS
Maximum Diversion Volume: 492.0 AF

It is hereby certified that REDCLIFF PARTNERS LP
A CALIFORNIA LTD PARTNERSHIP
567 SAN NICOLAS DR STE 340
NEWPORT BEACH CA 92660
And
DFT PROPERTIES
C/O RANNEY E & MARK P DRAPER
567 SAN NICOLAS DR STE 340
NEWPORT BEACH CA 92660 has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated September 11, 2003; and has submitted
Proof of Beneficial Use on October 24, 2005. 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>
AESTHETIC	01/01 to 12/31	0.68 CFS	492.0 AF
RECREATION	01/01 to 12/31	0.68 CFS	492.0 AF
WILDLIFE	01/01 to 12/31	0.68 CFS	492.0 AF

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SE1/4NE1/4 Sec. 30, Twp 04N, Rge 18E, B.M. BLAINE County

PLACE OF USE: RECREATION, AESTHETIC, AND WILDLIFE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N 18E 32						X											

CONDITIONS OF APPROVAL

1. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently maintained at the point of diversion from the Big Wood River.
2. The right holder shall monitor the effect of return flows on the temperature of the Big Wood River in accordance with the rules and regulations of the Department Environmental Quality and in accordance with the agreement with protestant. The Director may require other water quality monitoring if necessary, to protect the local public interest. Use of water under this right, when combined with other recreational, aesthetic, hydropower, fish propagation or other traditional "non-consumptive uses" of water must not cause a significant degradation of water quality in the Big Wood River and its tributaries.
3. 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.

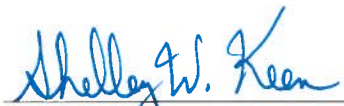
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-21176

4. Rights 37-4265, 37-8535, 37-20441 and 37-21176 when combined shall not exceed a total diversion rate of 10.00 cfs.
5. Rights 37-4265, 37-8535, 37-20441 and 37-21176 are also diverted through the point of diversion described above.
6. This right does not grant any right-of-way or easement across the land of another.
7. Use of water under this right may be affected by an agreement between the protestant and the right holder.
8. 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.
9. Measuring devices acceptable to the Department shall be permanently maintained at the point of re-diversion from the Cliffside Homeowners Assn. Inc. water system and at the point of discharge to the Big Wood River or a hydraulically connected side channel of the Big Wood River.
10. When delivery of water pursuant solely to this right is not possible because of earlier priority rights, including minimum stream flows, water diverted pursuant to Right 37-4265 may be delivered through the place of use for this right only if: a) losses incurred from the point of diversion from the Big Wood River to the point of discharge of the water diverted under Right 37-4265 are fully compensated, if such compensation is then required for the use of water under Right 37-4265, b) the water is discharged directly to the actively flowing channel of the Big Wood River or into a hydraulically connected side channel of the Big Wood River, and c) mitigation is provided as described below.
11. Water diverted under Right 37-20440 is used in combination with this right to mitigate losses of water resulting from the use of this right. From April 15 to October 31 each year water shall not be diverted under this right except when water is being diverted under Right 37-20440 for mitigation purposes. From November 1 to April 14 each year, water may be diverted under this right without mitigation.
12. Water shall not be diverted under this right when flows in the Big Wood River are below established minimum flow amounts of 189.00 cfs, as established by Rights 37-7919 and 37-8307.
13. Rights 37-20441 and 37-21176 when combined shall not exceed a total annual maximum diversion volume of 2,317 af at the field headgate.

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 23rd day of April, 2015.


for GARY SPACKMAN
Director



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

April 24, 2015

DFT PROPERTIES
C/O RANNEY E & MARK P DRAPER
567 SAN NICOLAS DR STE 340
NEWPORT BEACH CA 92660

REDCLIFF PARTNERS LP
A CALIFORNIA LTD PARTNERSHIP
567 SAN NICOLAS DR STE 340
NEWPORT BEACH CA 92660

RE: License Nos. 37-20441 & 37-21176

Issuance of Licenses

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Amended Water Right Licenses in response to your petition for reconsideration. The licenses confirm that water rights have been established in accordance with your permits. These licenses supersede the licensed documents issued on March 19, 2015. Please be sure to thoroughly review the conditions of approval and remarks listed on your licenses.

The Amended Licenses are PRELIMINARY ORDERS issued by the Department pursuant to Rule 760 of the Department's Rules of Procedure (IDAPA 37.01.01). They can and will become final orders 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,


For

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

c: JAMES P SPECK
WATER DISTRICT #37

CERTIFICATE OF SERVICE

I hereby certify that on May 01, 2015, I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDERS (Approved Licenses) to the person(s) listed below:

RE: WATER RIGHT NOS.

37-20441 & 37-21176

**DFT PROPERTIES
C/O RANNEY E & MARK P DRAPER
567 SAN NICOLAS DR STE 340
NEWPORT BEACH CA 92660**

**REDCLIFF PARTNERS LP
A CALIFORNIA LTD PARTNERSHIP
567 SAN NICOLAS DR STE 340
NEWPORT BEACH CA 92660**

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

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

A handwritten signature in black ink, reading "Darla Block", is written over a horizontal line.

**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 37-20441 and 37-21176

FROM: Daniel Nelson – Staff Hydrologist

DATE: April 16, 2015

SUBJECT: Petition for Reconsideration Review for 37-20441 and 37-21176

A petition for reconsideration (petition) was received from the owner of the above two water rights through their attorney Jim Speck on April 3, 2015. Mr. Speck's concern was that the volume licensed for water rights 37-20441 and 37-21176 only account for the volume of water recorded by the watermaster in 2004 during the irrigation season of 181 days.

The Licensed Volume:

The licensed volumes were based on the measurements recorded by the watermaster in 2004 during the 180 day irrigation season. The total volume recorded by the watermaster diverted into the Comstock Ditch in 2004 was 1551 af, and the licenses were conditioned accordingly.

Petition Review:

I contacted the watermaster to attain his opinions on this issue. The watermaster stated that he was "pretty sure" the water was diverted to the ponds year round, but he had no records of delivery to the ponds during the non-irrigation season. The watermaster provided flow records that were done in 2014 and 2015. 2014 was the first year that the watermaster has measured the water diverted in this area on a year round basis. The 2015 data is incomplete, so it cannot be used.

The 2004 data stated that 1,551 af of water was diverted during a 181 day period. The 2014 data shows that 1,576 af was diverted during this same time period. The 2004 data is 98.4 % of the measured flows in 2014 during the 181 day period. The 2014 data shows an annual volume of 3,133 af. If you multiply the 2014 year round volume by the 98.4%, the estimated volume diverted year round in 2004 data would be approximately 3,083 af.

Mr. Speck supplied an email from his client stating that he has diverted 50 % of the flows in the Comstock Ditch during the non-irrigation season. Using this information, the volume of water diverted to the pond during the non irrigation season would be 766 af ($[3,083 \text{ total volume} - 1551 \text{ af irrigation season volume}] \times 0.50 = 766 \text{ af}$). The year round volume for this system would then be 2,317 af ($1,551 \text{ af irrigation season volume} + 766 \text{ af non-irrigation season volume}$). The licenses should be amended to reflect the 2,317 af system volume described by Mr. Speck's client and the original licensed amount.

WATER DISTRIBUTION
AND
ELECTRICITY WORKS
2004

WATER DISTRICT NO. 37 & 37M

WATER DISTRICT 37 & 37M

WATER DISTRICT 37 & 37M							
CANAL NAME		COMSTOCK		CANAL NO. 10			2004
OWNER	VARIOUS						
DATE	APRIL	MAY	JUNE	JULY	AUG	SEPT	DATE
1		4.00	4.00	5.68	3.48	5.68	1
2	1.40	4.00	4.00	5.68	3.48	5.68	2
3	1.40	4.00	4.00	5.68	3.48	4.00	3
4	1.40	4.00	4.92	5.68	3.48	4.00	4
5	1.40	5.68	4.92	5.68	3.48	4.00	5
6	1.40	5.68	4.92	5.68	4.92	4.00	6
7	1.40	5.68	4.92	4.92	4.92	4.00	7
8	1.40	5.68	4.92	4.92	4.92	4.00	8
9	1.40	5.68	4.92	4.00	4.92	4.00	9
10	1.40	5.68	4.92	4.00	4.92	4.00	10
11	1.40	5.68	4.92	4.00	4.92	4.00	11
12	1.40	5.68	4.92	4.00	4.92	4.00	12
13	1.40	5.68	4.92	4.00	4.00	4.00	13
14	1.40	4.00	4.92	4.00	4.00	4.00	14
15	1.40	4.00	4.92	4.00	4.00	4.00	15
16	4.00	4.00	4.92	4.00	4.00	4.00	16
17	4.00	4.00	4.92	4.00	4.00	5.68	17
18	4.00	4.00	4.92	4.00	4.92	5.68	18
19	4.00	4.00	4.00	4.92	4.92	5.68	19
20	4.00	4.00	4.00	4.92	4.92	5.68	20
21	4.00	4.00	4.00	4.92	4.92	5.68	21
22	4.00	4.00	4.00	4.92	4.92	5.68	22
23	4.00	4.00	4.00	4.00	4.00	5.68	23
24	4.00	4.00	4.00	4.00	4.00	5.68	24
25	4.00	4.00	5.68	4.00	4.00	5.68	25
26	4.00	4.00	5.68	4.00	4.00	5.68	26
27	4.00	4.00	5.68	4.00	5.68	5.68	27
28	4.00	4.00	5.68	4.00	5.68	5.68	28
29	4.00	4.00	5.68	4.00	5.68	5.68	29
30	4.00	4.00	5.68	3.48	5.68		30
31		4.00		3.48	5.68		31
TOTAL	79.60	139.12	143.88	138.56	140.84	141.20	

YEARLY C F S 783
 YEARLY ACRE FEET 1551
 TOTAL NO OF DAYS 181
 YEARLY MEAN 4

WATER DISTRICT 37

CANAL NAME COMSTOCK DITCH												CANAL NO: 10	2014
OWNER VARIOUS												INFLOW	2.25 FT RSO
DATE	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	DATE
1	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.41	4.68	3.65	4.27	5.29	1
2	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.41	4.68	3.65	4.27	5.29	2
3	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.41	4.68	3.80	4.27	5.29	3
4	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.41	4.68	3.80	4.27	5.29	4
5	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.41	4.50	3.80	4.41	3.80	5
6	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.41	4.50	3.80	4.41	3.80	6
7	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.41	4.50	3.80	4.41	3.80	7
8	3.3	4.41	4.27	4.27	5.1	4.27	3.80	4.79	4.50	3.80	4.41	3.80	8
9	3.3	4.41	4.27	4.27	5.1	4.27	5.29	4.79	4.79	3.80	4.41	3.80	9
10	3.3	4.41	4.27	4.27	5.1	4.27	5.29	4.79	4.79	3.80	4.41	3.80	10
11	3.3	4.41	4.27	4.27	5.1	4.27	5.29	4.79	4.79	3.80	4.41	3.80	11
12	3.3	4.41	4.27	4.27	5.1	4.27	5.29	4.79	4.79	3.80	4.41	3.80	12
13	3.3	4.41	4.27	4.27	5.1	4.27	5.29	4.79	4.27	3.80	4.41	3.80	13
14	3.3	4.41	4.27	4.27	5.1	4.27	5.29	4.68	4.27	3.65	4.41	3.80	14
15	3.3	4.27	4.27	4.27	5.1	4.27	5.29	4.68	4.27	3.65	5.04	3.80	15
16	3.3	4.27	4.27	4.27	5.1	4.27	5.29	4.68	4.27	3.65	5.04	3.80	16
17	3.3	4.27	4.27	4.27	5.1	4.27	5.29	4.68	4.27	3.80	5.04	3.80	17
18	3.3	4.27	4.27	4.27	5.5	4.27	4.68	4.68	4.27	3.80	5.04	3.80	18
19	3.3	4.27	4.27	4.27	5.5	4.27	4.68	5.29	4.27	3.80	5.04	3.80	19
20	3.3	4.27	4.27	4.27	5.5	3.8	4.68	5.29	3.25	3.80	5.04	3.80	20
21	3.3	4.27	4.27	4.27	5.5	3.8	4.68	5.29	3.25	3.96	5.04	3.80	21
22	3.3	4.27	4.27	4.27	5.5	3.8	5.29	4.79	3.25	3.96	5.29	3.80	22
23	3.3	4.27	4.27	4.27	5.5	3.8	5.29	4.79	4.27	3.96	5.29	3.80	23
24	4.41	4.27	4.27	4.27	5.5	3.8	5.29	4.79	4.27	4.12	5.29	3.65	24
25	4.41	4.27	4.27	4.27	5.5	3.8	4.68	4.79	4.27	4.12	5.29	3.65	25
26	4.41	4.27	4.27	4.27	5.5	3.8	4.68	5.54	4.27	4.12	5.29	3.30	26
27	4.41	4.27	4.27	4.27	5.5	3.8	4.68	5.54	4.27	4.12	5.29	3.30	27
28	4.41	4.27	4.27	4.27	5.5	3.8	4.41	5.54	4.27	4.12	5.29	3.30	28
29	4.41	4.27	4.27	4.27	5.5	3.8	4.41	4.68	4.27	4.27	5.29	1.90	29
30	4.41	4.27	4.27	4.27	5.5	3.8	4.41	4.68	3.65	4.27	5.29	1.90	30
31	4.41		4.3	4.3	5.5	3.8		4.68		4.27	5.29		31
TOTAL	111.2	130.1	132.37	132.4	147.54	126.73	139.87	148.70	129.1	120.5	149.4	114.4	

YEARLY C F S 1582
 YEARLY ACRE FEET 3133
 TOTAL NO OF DAYS 368
 YEARLY MEAN 4

WATER DISTRICT 37

CANAL NAME		COMSTOCK DITCH							CANAL NO: 10				2015
OWNER		VARIOUS							INFLOW				2.25 FT RSO
DATE	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	DATE
1	3.00	3.5	5.00	4.27	5.1	5.00							1
2	3.00	3.5	5.00	4.27	5.1	5.00							2
3	3.00	3.5	5.00	4.27	5.1	5.00							3
4	3.00	3.5	5.00	4.27	5.1	5.00							4
5	3.00	3.5	5.00	4.27	5.1	5.00							5
6	3.00	3.5	5.00	4.27	5.1	5.00							6
7	3.00	3.5	5.00	4.27	5.1	5.00							7
8	3.00	3.5	5.00	4.27	7.3	5.00							8
9	3.00	3.5	5.00	4.27	7.3	5.00							9
10	3.00	3.5	5.00	4.27	7.3	5.00							10
11	3.00	3.5	5.00	4.27	10.0	4.27							11
12	3.00	3.5	5.00	4.27	10.0	4.27							12
13	3.00	3.5	5.00	4.27	10.0	4.27							13
14	3.00	3.5	5.00	4.27	10.0	4.27							14
15	3.00	4.27	5.00	4.27	10.0	4.27							15
16	3.00	4.27	5.00	5.00	10.0	4.27							16
17	3.00	4.27	5.00	5.00	5.1	4.27							17
18	3.30	4.27	5.00	5.00	5.50	4.27							18
19	3.30	4.27	5.00	5.00	5.50	4.27							19
20	3.30	4.27	5.00	5.00	5.50	3.80							20
21	3.30	4.27	5.00	5.00	5.50	3.80							21
22	3.30	4.27	5.00	5.00	5.50	3.80							22
23	3.30	4.27	5.00	5.00	5.50	3.80							23
24	3.50	4.20	5.00	5.00	5.50	3.80							24
25	3.50	4.20	4.27	5.00	5.50	3.80							25
26	3.50	4.20	4.27	5.00	5.50	4.00							26
27	3.50	4.20	4.27	5.00	5.50	4.00							27
28	3.50	4.20	4.27	5.00	5.50	4.00							28
29	3.50	4.20	4.27	5.00	5.50	4.00							29
30	3.50	4.20	4.27	5.00	5.50	4.00							30
31	3.50		4.27	5.00	5.50	4.00							31
TOTAL	98.8	116.8	149.89	144.1	183.36	135.23	0.00	0.00	0.0	0.0	0.0	0.0	

YEARLY C F S	828
YEARLY ACRE FEET	1640
TOTAL NO OF DAYS	185
YEARLY MEAN	4

Keen, Shelley

From: Jim Speck [jim@speckandaanestad.com]
Sent: Wednesday, April 15, 2015 5:28 PM
To: Keen, Shelley; Nelson, Dan
Cc: 'Ranney Draper - Spring Creek Investors'
Subject: FW: Comstock Ditch

Shelley & Dan,

Please include the e-mail below in your consideration of the petition to reconsider the annual diversion volume limitation imposed on the recently issued licenses for 37-20441 & 37-21176. Let me know if you have any questions. Thank you.

Jim

-----Original Message-----

From: Ranney Draper - Spring Creek Investors
Sent: Wednesday, April 15, 2015 5:22 PM
To: Jim Speck

Jim:
During every non-irrigation season since 2003 I have diverted through the ponds on my property and returned to the river approximately 50% of the total flow in the Comstock Ditch.
Ranney Draper

MEMORANDUM

DATE: April 9, 2015

TO: Water Right Files 37-20441 and 37-21176

FROM: Shelley W. Keen ^{SWK}

RE: Phone conversation with attorney Jim Speck

Yesterday at 2:00 p.m. Dan Nelson and I called attorney Jim Speck to discuss the petition for reconsideration he submitted to IDWR in connection with the licenses issued for Rights 37-20441 and 37-21176. Mr. Speck confirmed that the licensed diversion rates are not a concern, but that his client would like IDWR to adjust the annual volume limitations to account for diversions of water outside the irrigation season. I acknowledged that IDWR has received data from Water District 37 confirming the use of water outside the irrigation season during 2014 and 2015, but not during the development period. I asked Mr. Speck to provide information, possibly in the form of an eyewitness affidavit, that his client diverted and used water outside the irrigation season during the development period. I also stated that if IDWR received the requested confirmation of use, IDWR would consider using the 2014 diversion data to estimate a non-irrigation season volume appropriate for the licenses. Mr. Speck agreed to try to acquire and submit the requested information by next week so that IDWR could meet its obligation to respond to the petition for reconsideration by April 24, 2015.

Nelson, Dan

From: Kevin Lakey [watermanager@cableone.net]
Sent: Monday, April 06, 2015 2:36 PM
To: Nelson, Dan
Subject: RE: Comstock Ditch Diversions
Attachments: 10 COMSTOCK-VARIOUS TOTAL YR READINGS 2015.xlsx

2015 to 3/31 attached
Kevin Lakey
WD 37

From: Nelson, Dan [mailto:Dan.Nelson@idwr.idaho.gov]
Sent: Monday, April 06, 2015 9:21 AM
To: Kevin Lakey
Subject: RE: Comstock Ditch Diversions

Kevin,

I would really appreciate it if you could send me those records. I am sorry about the inconvenience, but we need to figure this out.

Thank you,

Dan Nelson

From: Kevin Lakey [mailto:watermanager@cableone.net]
Sent: Monday, April 06, 2015 9:05 AM
To: Nelson, Dan
Subject: RE: Comstock Ditch Diversions

Dan,
WD 37 never tracked the winter flows for the Comstock back in the mid 2000's. I'm pretty sure it was on during those times, but I have no records of diversion. This past winter (2014-15) was actually the first winter we monitored its flows. The average flow was around 5 cfs from October 1 to March 31st with around 10 cfs during the middle of March 2015. If you need actual records, I can get them to you, but it will take a couple days to get it all entered into a spreadsheet.

Kevin Lakey
WD 37

From: Nelson, Dan [mailto:Dan.Nelson@idwr.idaho.gov]
Sent: Monday, April 06, 2015 8:17 AM
To: Kevin Lakey
Subject: Comstock Ditch Diversions

Hello Kevin,

We received a Petition for Reconsideration for water rights 37-2776 and 37-20441 diverted out of the Comstock Ditch. In the petition, Mr. Speck stated that you disagreed with the diversion volume recommended for these two rights. Do you have any records or information that I could use to correct the diversion volume for the Comstock Ditch? I was

under the assumption that the Comstock Ditch did not divert water during the winter months due to icing of the ditch and headgate.

Any information that you can send me would be helpful in making a determination on whether or not to allow additional volume for these rights. If you could give me the number of days they divert, or anything like that would be helpful. Unfortunately, time is of the essence. I only have 21 days to respond to the petition, so I am under a bit of a deadline on this one.

If you have any questions, please don't hesitate to ask.

Thank you.

Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

WATER DISTRICT 37

CANAL NAME		COMSTOCK DITCH							CANAL NO: 10				2015
OWNER		VARIOUS							INFLOW				2.25 FT RSO
DATE	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	DATE
1	3.00	3.5	5.00	4.27	5.1	5.00							1
2	3.00	3.5	5.00	4.27	5.1	5.00							2
3	3.00	3.5	5.00	4.27	5.1	5.00							3
4	3.00	3.5	5.00	4.27	5.1	5.00							4
5	3.00	3.5	5.00	4.27	5.1	5.00							5
6	3.00	3.5	5.00	4.27	5.1	5.00							6
7	3.00	3.5	5.00	4.27	5.1	5.00							7
8	3.00	3.5	5.00	4.27	7.3	5.00							8
9	3.00	3.5	5.00	4.27	7.3	5.00							9
10	3.00	3.5	5.00	4.27	7.3	5.00							10
11	3.00	3.5	5.00	4.27	10.0	4.27							11
12	3.00	3.5	5.00	4.27	10.0	4.27							12
13	3.00	3.5	5.00	4.27	10.0	4.27							13
14	3.00	3.5	5.00	4.27	10.0	4.27							14
15	3.00	4.27	5.00	4.27	10.0	4.27							15
16	3.00	4.27	5.00	5.00	10.0	4.27							16
17	3.00	4.27	5.00	5.00	5.1	4.27							17
18	3.30	4.27	5.00	5.00	5.50	4.27							18
19	3.30	4.27	5.00	5.00	5.50	4.27							19
20	3.30	4.27	5.00	5.00	5.50	3.80							20
21	3.30	4.27	5.00	5.00	5.50	3.80							21
22	3.30	4.27	5.00	5.00	5.50	3.80							22
23	3.30	4.27	5.00	5.00	5.50	3.80							23
24	3.50	4.20	5.00	5.00	5.50	3.80							24
25	3.50	4.20	4.27	5.00	5.50	3.80							25
26	3.50	4.20	4.27	5.00	5.50	4.00							26
27	3.50	4.20	4.27	5.00	5.50	4.00							27
28	3.50	4.20	4.27	5.00	5.50	4.00							28
29	3.50	4.20	4.27	5.00	5.50	4.00							29
30	3.50	4.20	4.27	5.00	5.50	4.00							30
31	3.50		4.27	5.00	5.50	4.00							31
TOTAL	98.8	116.8	149.89	144.1	183.36	135.23	0.00	0.00	0.0	0.0	0.0	0.0	

YEARLY C F S	828
YEARLY ACRE FEET	1640
TOTAL NO OF DAYS	185
YEARLY MEAN	4

Nelson, Dan

From: Kevin Lakey [watermanager@cableone.net]
Sent: Monday, April 06, 2015 2:31 PM
To: Nelson, Dan
Subject: RE: Comstock Ditch Diversions
Attachments: 10 COMSTOCK-VARIOUS TOTAL YR READINGS 2014.xlsx

Dan,
I found deliveries for 2014. I will send 2015 in a little while.

Kevin Lakey
WD 37

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Thank you.

Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

3/18/2009

BIG WOOD ABOVE MAGIC DECREE BOOK

DIVER NO	R	DIVER NAME	FIRST NAME- OW	T NAME- OW	ST_ID	DECREE TO	PRIOR DATE		DECREED AMOUNT	CFS	OWNER CFS	CANAL CFS	CUSTOMER NO:	TRANSFER NUMBERS & F
10	D	COMSTOCK	RANNEY	DRAPER-RL	37-20440	WILLIAM ABBOTT	03	/ 24 /	1883	3.500	0.070	0.070	0.070	TR # 69282 TI
10	X	COMSTOCK	RANNEY	DRAPER-NCI	37-20441	RANNEY DRAPER	06	/ 21 /	2001	250.000	5.000	5.000		PERMIT # 20
10	X	COMSTOCK	RANNEY	DRAPER-NCI	37-21176	RANNEY DRAPER	9	/ 11 /	2003	250.000	5.000	10.000		PERMIT # 21
10	D	COMSTOCK	ELIZABETH	GRAY RLR-6	37-0048B	MARTIN BARRY	05	/ 01 /	1887	2.000	0.040	0.040	0.110	
10	D	COMSTOCK		CLIFFSIDE H	37-10913	W.T.RILEY	03	/ 24 /	1883	7.500	0.150	0.150	0.260	
10	D	COMSTOCK		CLIFFSIDE H	37-0419B	HORACE C.LEWIS	08	/ 02 /	1889	9.000	0.180	0.330	0.440	
10	D	COMSTOCK		CLIFFSIDE H	37-0703E	A.D.WILLIAMS	06	/ 15 /	1891	20.000	0.400	0.730	0.840	
10	X	COMSTOCK		CLIFFSIDE H	37-08535	GRAYSTONE INC.	07	/ 11 /	1989	500.000	10.000			
10	D	COMSTOCK	CHRIS	HAUGH	37-0048	MARTIN BARRY	05	/ 01 /	1887	10.000	0.200	0.200	1.040	
10	D	COMSTOCK	CHRIS	HAUGH	37-0833	ROCKWELL BY-PASS	11	/ 12 /	1936	10.000	0.200	0.400	1.240	
10	X	COMSTOCK		JESINGER-N	37-08830	ROBERT BLOOMFIELD	08	/ 04 /	1994	5.000	0.100			
10	D	COMSTOCK		KANSHAR %	37-0048	MARTIN BARRY	05	/ 01 /	1887	165.000	3.300	3.300	4.540	
10	X	COMSTOCK		RIVERS EDG	37-8278	HELEN FASSETT	09	/ 25 /	1986	200.000	4.000	4.000		
10	X	COMSTOCK		RIVERS EDG	37-08611	RIVERS EDGE (NCP)	05	/ 10 /	1990	200.000	4.000			

BY PRIORITY

10	D	COMSTOCK	RANNEY	DRAPER-RL	37-20440	WILLIAM ABBOTT	03	/ 24 /	1883	3.500	0.070	0.070	0.070	TR # 69282 TI
10	D	COMSTOCK		CLIFFSIDE H	37-0577BL	W.T.RILEY	03	/ 24 /	1883	7.500	0.150	0.150	0.260	
10	D	COMSTOCK	ELIZABETH	GRAY RLR-6	37-0048	MARTIN BARRY	05	/ 01 /	1887	2.000	0.040	0.040	0.110	
10	D	COMSTOCK	CHRIS	HAUGH	37-0048	MARTIN BARRY	05	/ 01 /	1887	10.000	0.200	0.200	1.040	
10	D	COMSTOCK		KANSHAR %	37-0048	MARTIN BARRY	05	/ 01 /	1887	165.000	3.300	3.300	4.540	
10	D	COMSTOCK		CLIFFSIDE H	37-0419B	HORACE C.LEWIS	08	/ 02 /	1889	9.000	0.180	0.330	0.440	
10	D	COMSTOCK		CLIFFSIDE H	37-0703E	A.D.WILLIAMS	06	/ 15 /	1891	20.000	0.400	0.730	0.840	
10	D	COMSTOCK	CHRIS	HAUGH	37-0833	ROCKWELL BY-PASS	11	/ 12 /	1936	10.000	0.200	0.400	1.240	
10	X	COMSTOCK		RIVERS EDG	37-8278	HELEN FASSETT	09	/ 25 /	1986	200.000	4.000	4.000		
10	X	COMSTOCK		CLIFFSIDE H	37-08535	GRAYSTONE INC.	07	/ 11 /	1989	500.000	10.000			
10	X	COMSTOCK	CYNTHIA	JESINGER-N	37-08830	ROBERT BLOOMFIELD	08	/ 04 /	1994	5.000	0.100			
10	X	COMSTOCK		RIVERS EDG	37-08611	RIVERS EDGE (NCP)	05	/ 10 /	1990	200.000	4.000			
10	X	COMSTOCK	RANNEY	DRAPER-NCI	37-20441	RANNEY DRAPER	06	/ 21 /	2001	250.000	5.000	5.000		PERMIT # 20
10	X	COMSTOCK	RANNEY	DRAPER-NCI	37-21176	RANNEY DRAPER	9	/ 11 /	2003	250.000	5.000	10.000		PERMIT # 21

3/18/2009

BIG WOOD ABOVE MAGIC DECREE BOOK

DIVER NO	R	DIVER NAME	FIRST NAME- OW T NAME- OW ST_ID	DECREE TO	PRIOR DATE	DECREED AMOUNT	CFS	OWNER CFS	CANAL CFS	CUSTOMER NO:	TRANSFER NUMBERS & F
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10	X	COMSTOCK	RANNEY DRAPER-NCI 37-21176	RANNEY DRAPER	9	2003	250.000	5.000	10.000		PERMIT # 21
10	D	COMSTOCK	ELIZABETH GRAY RLR-6 37-0048B	MARTIN BARRY	05	1887	2.000	0.040	0.040	0.110	
10	D	COMSTOCK	CLIFFSIDE H 37-10913	W.T.RILEY	03	1883	7.500	0.150	0.150	0.260	
10	D	COMSTOCK	CLIFFSIDE H 37-0419B	HORACE C.LEWIS	08	1889	9.000	0.180	0.330	0.440	
10	D	COMSTOCK	CLIFFSIDE H 37-0703E	A.D.WILLIAMS	06	1891	20.000	0.400	0.730	0.840	
10	X	COMSTOCK	CLIFFSIDE H 37-08535	GRAYSTONE INC.	07	1989	500.000	10.000			
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10	D	COMSTOCK	CHRIS HAUGH 37-0833	ROCKWELL BY-PASS	11	1936	10.000	0.200	0.400	1.240	
10	X	COMSTOCK	JESINGER-N 37-08830	ROBERT BLOOMFIELD	08	1994	5.000	0.100			
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BY PRIORITY

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Nelson, Dan

From: Jim Speck [jim@speckandaanestad.com]
Sent: Friday, April 03, 2015 2:37 PM
To: Nelson, Dan
Cc: Keen, Shelley; rdraper@scinv.com
Subject: RE: RE: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Dan,

I went through your memo and discussed the Watermaster records with Kevin Lakey. My client will accept the total flow limit of 5.86 cfs but not the annual diversion volume. Kevin Lakey confirmed the volume numbers on the Watermaster records do NOT account for any diversions from the end of September until the first of April as he did not take any measurements at the Comstock headgate during those dates in the years in question. Please consider this e-mail my client's petition to reconsider the combined annual diversion limit of 1551 acre-feet imposed on these two rights based on the annual volume recorded by WD37 in 2004.

Kindly call me Monday to discuss. This. Thank you.

Jim

-----Original Message-----

From: Nelson, Dan
Sent: Wednesday, March 25, 2015 1:51 PM
To: jim@speckandaanestad.com
Cc: Keen, Shelley

Dear Mr. Speck,

Shelley Keen asked if I could respond to your email, since I reviewed the file for licensing. From the reading of your email, it appears as though you may have missed the licensing review memo dated December 15, 2014. I have attached a copy of the memo with this email, but if you would like to look at it on our database, it would be in the file called "License & Supporting Documents." The memo starts on page 8 of 21 of that file. This memo should explain why the recommendations of the field examiner were not followed.

A brief explanation for not following the field examiner's recommendation, is that we feel the Water District 37 delivery records gave a better representation of the water delivered to the Comstock Ditch than the one day field exam performed by staff.

If you have further questions, please don't hesitate to ask.

Thank you.

Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

PETITION FOR
RECONSIDERATION
4-3-15

-----Original Message-----

From: Keen, Shelley
Sent: Wednesday, March 25, 2015 12:10 PM
To: Nelson, Dan
Subject: FW: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Dan,

Will you respond to Jim and augment/update the files as needed?

Thanks.

Shelley

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, March 25, 2015 11:32 AM
To: Keen, Shelley
Cc: rdraper@scinv.com
Subject: RE: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Shelley,

The reports recommend the permitted 5 cfs for both rights with no diversion volume limits. The licenses limit 21176 to 0.68 cfs & 492 AF/yr and have a combined 1551 AF/yr limit. Why were these changes from the recommendation made in the licensing process??

Jim

-----Original Message-----

From: Keen, Shelley
Sent: Tuesday, March 24, 2015 4:24 PM
To: Jim Speck

Jim,

Darla reports that they will be done by 5:30 tonight, so they should be available to you via the website tomorrow morning.

Regards,

Shelley

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, March 24, 2015 4:19 PM
To: Keen, Shelley
Cc: rdraper@scinv.com; Skaggs, Pam
Subject: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Shelley,

Today I received copies of the licenses issued for these rights. Would you please e-mail to me or post on your website as soon as possible copies of the beneficial use field reports so I can understand the bases for changes from the permits. Thank you.

Jim

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]

Sent: Monday, October 20, 2014 4:22 PM

To: 'Keen, Shelley'

Subject: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Thanks, Shelley.

Jim

-----Original Message-----

From: Keen, Shelley

Sent: Monday, October 20, 2014 2:05 PM

To: Jim Speck

Jim,

Files 37-21176 and 37-20441 are in a box of dozens of field reports that Sandy Hemenway had in progress when she retired in April. Dan Nelson is working through the items in the box as fast as he can.

If there is a specific reason to prioritize these, such as a pending land sale, we could probably do so. Otherwise, I'm afraid it will take us some time to get them finished. During the summer months we are typically busy with fieldwork and WSB rentals. I'm hopeful that we will make more progress in the licensing program over the winter.

Sincerely,

Shelley Keen

Idaho Department of Water Resources

Shelley.Keen@idwr.idaho.gov

208-287-4947

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]

Sent: Monday, October 20, 2014 10:42 AM

To: Keen, Shelley

Cc: Nelson, Dan; Mr. Ranney Draper

Subject: RE: RE: RE: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Hi Shelley,

Just checking in again! Please get back to me on the status of the licenses. Thanks.

Jim

-----Original Message-----

From: Keen, Shelley

Sent: Thursday, July 31, 2014 12:16 PM

To: Jim Speck

Cc: Nelson, Dan

Jim,

The database shows that the licenses have not been issued. Sandy Hemenway was working on dozens of field reports, but she retired in April. Since then, Dan Nelson has been working with her field notes to complete the beneficial use field reports and issue licenses. It may take some time to get through all the ones that Sandy was working on. If you have a particular need for us to prioritize these two, please let me or Dan know.

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Thursday, July 31, 2014 12:01 PM
To: Keen, Shelley
Subject: FW: RE: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Shelley,

Have the licenses for these two rights been issued? Thanks.

Jim

-----Original Message-----

From: Hemenway, Sandy
Sent: Friday, March 28, 2014 12:41 PM
To: Jim Speck
Cc: 'Mr. Ranney Draper'

Jim,

I apologize for the delay, but I am not in the office very much anymore, except to write up field exams (I have been using up vacation time, and I am retiring from IDWR on 4/17/2014).

The beneficial use field examinations for 37-21176 and 37-20441 were completed on 3/7/2014 (see attached copy), and will be licensed by the department once they have been assigned.

Thanks,

Sandy

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, February 26, 2014 2:56 PM
To: Hemenway, Sandy
Cc: 'Mr. Ranney Draper'
Subject: RE: RE: RE: 37-21176, 37-20441 licensing review for these water rights

Sandy,

Are the reports finished yet? Thanks.

Jim

Attachment(s): DOC.pdf

Attachment(s): License Review Memorandum.pdf

Nelson, Dan

From: Kevin Lakey [watermanager@cableone.net]
Sent: Monday, April 06, 2015 9:05 AM
To: Nelson, Dan
Subject: RE: Comstock Ditch Diversions

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To: Kevin Lakey
Subject: Comstock Ditch Diversions

Hello Kevin,

We received a Petition for Reconsideration for water rights 37-2776 and 37-20441 diverted out of the Comstock Ditch. In the petition, Mr. Speck stated that you disagreed with the diversion volume recommended for these two rights. Do you have any records or information that I could use to correct the diversion volume for the Comstock Ditch? I was under the assumption that the Comstock Ditch did not divert water during the winter months due to icing of the ditch and headgate.

Any information that you can send me would be helpful in making a determination on whether or not to allow additional volume for these rights. If you could give me the number of days they divert, or anything like that would be helpful. Unfortunately, time is of the essence. I only have 21 days to respond to the petition, so I am under a bit of a deadline on this one.

If you have any questions, please don't hesitate to ask.

Thank you.

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