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## MEMORANDUM

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**TO:** T78777 FILE  
**FROM:** J. COOPER  
**SUBJECT:** COMSTOCK DITCH CONVEYANCE  
**DATE:** 12/19/2013

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During the prehearing conference between the applicants' representatives (Fritz Hammermerle & Greg Sullivan (Brockway Engineering)) and the protestant, Craig Hobdey (Big Wood Canal Company), it was proposed that the applicant leave the 0.01 CFS proposed to be left in the Comstock Ditch to be left in the river directly. The Department expressed concern that this might injure users on the Comstock who have relied on the delivery of that water for conveyance purposes. In a phone call to the WD37 Watermaster, it was realized that this water has not been delivered at the Comstock headgate for many years and those users have not (recently) relied on it for conveyance. Also, outside of the right being transferred, it appears the rights being delivered are of a non-consumptive nature which ultimately makes their way back to the river in a relatively short distance from the headgate. The remainder of the Comstock has been obliterated due to construction in the area. Because of this evidence, the Department has decided it would be acceptable to keep the 0.01 CFS in the river in lieu of being diverted into the Comstock Ditch.