

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 37-22354) **ORDER DENYING SECOND REQUEST**
IN THE NAME OF JUDE P. AND JULIA) **TO MODIFY MEASURING DEVICE**
MANDEVILLE DAMASCO TRUST) **REQUIREMENT**

This matter having come before the Department of Water Resources (Department) as a request to remove or modify a measuring device requirement, 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) with a condition of approval requiring the installation of flow measurement devices and lockable controlling works as part of the diverting works. The permit authorizes the diversion of water from Indian Creek for the filling and maintenance of a pond and for water to flow through the pond. Indian Creek water is conveyed to the pond by injecting it into the Hiawatha Canal and re-diverting it from the canal. Condition #9 of the Permit provides:

Prior to diversion of water under this right, the right holder shall install and maintain measuring devices and lockable controlling works of a type acceptable to the Department as part of the diverting works. Measuring devices shall be installed at the location where water is diverted from Indian Creek into the Hiawatha Canal, at the location where water is diverted from the Hiawatha canal for conveyance to the pond, and at the discharge location from the pond.

2. On October 23, 2012, the Department issued an order modifying the measuring device condition in response to the permit holder's first request. The condition was modified as follows:

Prior to diversion of water under this right, the right holder shall install and maintain measuring devices and lockable controlling works of a type acceptable to the Department as part of the diverting works. A measuring device with control works shall be installed at the location where water is diverted from the Hiawatha canal for conveyance to the pond. A measuring device shall also be installed and maintained at the location of discharge from the pond. When notified by the Department or the watermaster, the right holder shall install and maintain a measuring device or rated section, subject to approval by the Department, at the mouth of Indian Creek where water from Indian Creek discharges into the Hiawatha Canal.

3. On March 25, 2013, the permit holder's representative, Charles E. Brockway with Brockway Engineering PLLC, submitted a second request by e-mail to modify the condition by removing the requirement for installation of a measuring device to measure the discharge from the pond. The e-mail requested the Watermaster of Water District 37 provide his recommendation relative to the request.

4. On April 5, 2013, Kevin Lakey, Watermaster of Water District 37, provided a letter and commented that:

As Watermaster on the Big Wood River, I measure the Big wood Rights involved (37-297D and 37-20359) when they leave the river, so I believe water right holders on the Big Wood are protected from injury, the management of those rights after they leave the river is under the jurisdiction of the Hiawatha Canal Company. For these reasons I defer judgment on this matter until the water right holder has a reply from the Hiawatha Canal Company.

5. On May 6, 2013, Dave Cropper, manager of the Hiawatha Canal Company, in a phone call with the Department, indicated that measurement of water into and from the pond is necessary to properly administer the rights being delivered via the Hiawatha Canal including the diversion of water by the holder of Permit 37-22354.

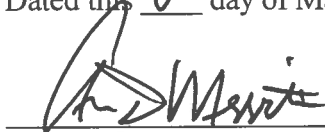
CONCLUSIONS OF LAW

1. Installation of a measuring devices on the inflow and outflow from the pond is necessary for administration of the diversion of water by the holder of Permit 37-22354.

ORDER

The second request to modify the condition requiring measuring devices on the outflow of the pond is **DENIED**. The condition shall remain as defined in the October 23, 2012, order.

Dated this 8th day of May, 2013



Allen Merritt, PE
Southern Region Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May, 2013, I mailed a true and correct copy, of the foregoing **ORDER DENYING SECOND REQUEST TO MODIFY MEASURING DEVICE REQUIREMENT** to the person(s) listed below:

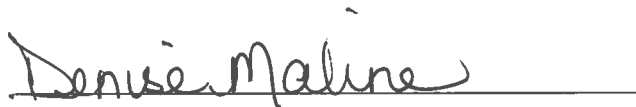
Jude & Julia Mandeville Damasco Trust
700 Monte Vista Way
Half Moon Bay, CA 94019

Speck & Aanestad
Attn: James Speck
PO Box 987
Ketchum, ID 83340

Brockway Engineering
Attn: Zach Latham
2016 N Washington St, Ste 4
Twin Falls, ID 83301

Kevin Lakey
Water District #37
107 W 1st
Shoshone, ID 83352

Hiawatha Canal Co.
Attn: David Cropper
PO Box 1604
Hailey, ID 83333

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

Denise Maline
Administrative Assistant