

MEMORANDUM

DATE: October 30, 2012

TO: Water Right File 35-8575A

FROM: Shelley W. Keen *SWK*

RE: Annual Diversion Volume

This morning I spoke on the phone with attorney Scott Campbell about his concern that the annual diversion volume of approximately 60 AF reflects conditions in an unusually snowy year. According to Mr. Campbell, in most years the use exceeds 60 AF. His client, the permit holder, is searching for records that will show actual use in excess of 60 AF. I recommitted to Michele Edl's statement that we can wait until December for the records, since this is a busy start-up period for the resort.

Mr. Campbell and I also discussed the possibility of looking at historical weather for years earlier than the development period to estimate the volume that might be needed for an extreme weather year. This would be similar to the allowance from Beneficial Use Examination Rule 35.01.j:

Annual diversion volumes for heating and cooling uses may be adjusted to account for documented weather conditions during any single heating or cooling season from among the fifty (50) years immediately prior to submitting proof of beneficial use for the permit.

The purpose of this provision was to acknowledge that the years prior to submitting proof may not have been the most extreme weather years. While the rule specifically references heating and cooling, I think we could recognize that making snow is also highly dependent on annual weather variations.

Finally, I asked Mr. Campbell to explain the file correspondence that discusses the injection of water into the Big Wood River and the rediversion of water from the river. Mr. Campbell explained that it is more cost effective for the resort to use river water because it is colder than the well water. His client injects ground water into the river and pumps out an equal amount just downstream under the bridge.

Mr. Campbell said that he will provide the volume records and a letter explaining the injection/rediversion process by the December deadline.