

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

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

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. 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 10, 2012, the permit holder's representative, Zach Latham with Brockway Engineering PLLC, e-mailed the Department and asked that the measuring device requirement for Indian Creek be waived.

3. On October 18, 2012, the permit holder's representative, Charles E. Brockway with Brockway Engineering PLLC, submitted additional information in a letter and supporting memo to the Department. Mr. Brockway also submitted written comments from Kevin Lakey, Watermaster of District 37. Mr. Lakey commented that: "I don't have a problem with waiving the measurement condition at the mouth of Indian Creek".

CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.

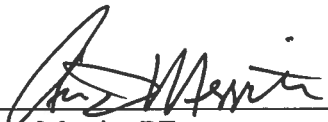
2. Installation of a measuring device at the mouth of Indian Creek is not necessary for administration of the diversion of water by the holder of Permit 37-22354 at this time, but it may be necessary in the future.

ORDER

Approval condition #9 requiring the permanent installation of a measuring device and lockable controlling works as part of the diversion works for the permit is **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.

Dated this 23rd day of October, 2012



Allen Merritt, PE
Southern Region Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of October, 2012, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER MODIFYING MEASURING DEVICE REQUIREMENT** to the person(s) listed below:

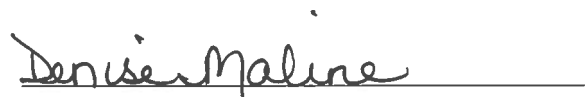
**Documents Enclosed: Order Modifying Measuring Device Requirement for Application
for Permit No. 37-22354, in the name of Jude P & Julia Mandeville
Damasco Trust**

JUDE P AND JULIA MANDEVILLE DAMASCO TRUST
700 MONTE VISTA WAY
HALF MOON BAY CA 94019

BROCKWAY ENGINEERING PLLC
C/O CHARLES E BROCKWAY
2016 WASHINGTON ST N, STE 4
TWIN FALLS ID 83301

SPECK & AANESTAD
JAMES P SPECK
PO BOX 987
KETCHUM ID 83340

KEVIN LAKEY, WATERMASTER
WATER DISTRICT 37
107 W 1ST ST
SHOSHONE, ID 83352

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

Denise Maline
Administrative Assistant