



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 14, 2010

JAMES MECHAM
PO BOX 3119
TWIN FALLS, ID 83303-3119

RE: Water Right No. 37-7861

Dear Mr. Mecham:

Your letter dated October 25, 2010 was forwarded to me from Cindy Yenter's office in Southern Region. I understand that you are dissatisfied with water right license 37-7861, which was issued to you in December 2009. I have taken another look at my review memorandum and at the support documents and I have discussed your concerns with state office staff. This letter is my response to your request to reconsider the limits on license 37-7861.

License 37-7861 is limited to the same 0.714 cfs from two different perspectives.

1) By decree

Your Stoddard Spring Creek water is limited to 0.714 cfs, by the Hamilton decree and this rate has been confirmed by the SRBA through decree 37-1244. If we agree that a rate limit is appropriate to SRBA decree 37-1244 and, that Stoddard Spring Creek water is used in right 37-7861, then that same limit must also be applied to all subsequent uses of water from the same source. I was required by the SRBA decree to limit uses of water Stoddard Creek Spring to the decreed rate 0.714 cfs.

2) By the appropriation and permitting process

Your permit limited the rate to 0.714 cfs and your examiner found that you had put that much water to beneficial use. Even if your SRBA decrees had not yet been issued to you, I would still have been required to limit 37-7862 to 0.714 cfs by the permit and by the beneficial use found.

A re-examination of the water right file has confirmed that a license issued for 37-7861 must be confined to boundaries which were set either by the SRBA court or by the permitting process. I could not issue license 37-7861 with the rate change you have requested.

The SRBA court recognized that the uses authorized by your Lower Waddington Creek water right 37-4389, overlap some uses authorized by your Stoddard Spring Creek water right 37-1244. The court tied those two rights together by the condition that both

rights would be limited to 0.714 cfs. No objections to that limit were filed at the time that those rights were decreed in 2006.

License 37-7861 was issued in December 2009. The period to object to that license has passed.

To reopen license 37-7861 would first require that the SRBA court set aside decreed right 37-1244, which is its foundation, and decreed right 37-4389 which is tied to it. Although it is not impossible to have a decree set aside, it is a challenge. If you wish to pursue that option, you will need to write a letter to the court explaining why the decrees are incorrect and petition the court to set them aside.

Respectfully,

A handwritten signature in cursive script, appearing to read "Michele Edl".

Michele Edl
Associate Engineer

cc: IDWR Southern Region