

# MEMORANDUM

**Date:** July 29, 2005  
**To:** Water Right Files 33-7093, 33-7159, 33-7177, and 33-7178  
**From:** Shelley Keen *SKK*  
**Re:** Licensing Review

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## TRIBUTARIES

Permits 33-7093, 33-7177, 33-7159, and 33-7178 each indicated that their sources sink before reaching the Little Lost River. Most of the SRBA decrees for related rights list the sources, Black Creek and Deep Creek, as being tributary to the Little Lost River. The 7.5 minute USGS topographic quadrangle appears to show the Black Creek and Deep Creek channels reaching the river. Moreover, the general provisions decreed in the SRBA for Basin 33 say that only Dry Creek rights will be administered as a separate source from the Little Lost River. For these reasons, I have prepared the licenses showing Black Creek and Deep Creek as being tributary to the Little Lost River.

## POINTS OF DIVERSION

For Rights 33-7093 and 33-7177, I am recommending the point of diversion be licensed to the 10-acre tract based on the field report for Right 33-7177. For Rights 33-7159 and 33-7178, I am recommending the point of diversion to the 40-acre tract because of the confusion over which 10-acre tract is correct, as documented in the file for Right 33-7179.

## ANNUAL DIVERSION VOLUMES

Because I could not find any data describing the flows in Deep Creek and/or Black Creek, the licensed annual volumes for Rights 33-7093, 33-7177, 33-7159, and 33-7178 are the results of the authorized diversion rates being diverted constantly all year.

## TERM OF LICENSES

Pursuant to Idaho Code Sections 42-202B(6) and (7), Rights 33-7093, 33-7177, 33-7159, and 33-7178 are being limited to a term of years after which IDWR may review and modify the licenses to satisfy public interest considerations. The term of years is based on the power purchase contract with Utah Power. The 35-year contract expires December 31, 2021.

## MEASURING DEVICE CONDITIONS

IDWR waived the measuring device requirements for Permits 33-7093 and 33-7159. Permits 33-7177 and 33-7178 have measuring device requirements. When drafting the licenses I left the requirement off 33-7093 and 33-7159, but I retained it for the other two. Because 33-7093 and 33-7177 share a point of diversion, as do 33-7159 and 33-7178, the effect is that a measuring device will be maintained for all the rights.

## OVERLAPS

Irrigation Rights 33-87, 33-2034, and 33-7179 are distributed through the same pipeline as Rights 33-7093, 33-7177, 33-7159, and 33-7178. According to Senior Water Resource Agent Allen Ruberry, who is familiar with the operation of the system, all the water is run through the turbines for power generation prior to being used for irrigation. Therefore, the irrigation rights and power rights must be limited to the total combined rate for the power rights, which is 14.0 cfs. In addition, the Black Creek rights are limited to the sum of the power rights from that source, plus 0.3 cfs because Right 33-2034 could be diverted from its alternate source, Deep Creek. Similarly, the Deep Creek rights are limited to the sum of the power rights from that source, plus 0.3 cfs because Right 33-2034 could be diverted from its alternate source, Black Creek.