

From: Roda, Evan
Sent: Wednesday, February 26, 2025 10:41 AM
To: dylan@hedden-nicely.com
Cc: 'Scott Mannakee'; 'Ray Entz'; 'Claire Newman'
Subject: RE: Kalispel Water Right Claims (State Law, Basin 97) -- Part 1
Attachments: 97-2017 Kalispel Tribe Layout.pdf; 97-7004_KALISPEL TRIBE LAYOUT.pdf

Good morning Dylan,

I'm glad you reached out to me, as I was preparing to contact you regarding the remaining two claims that we had previously discussed (97-7541 & 97-7544). For this correspondence, I'll address only the questions you asked below to avoid any confusion.

1. As information needed to complete the recommendations for some of your claims was not received until September 2024, a portion of those claim recommendations were not completed in time to be included in our Notice of Error mailings (Preliminary Director's Reports), which were sent out in August.
2. IDWR recommended 1.98 CFS for this right based upon the number of acres actually irrigated. Water Right no. 97-2017 was originally issued with a diversion rate of 2.24 CFS for the irrigation of 112 acres (0.02 CFS per acre). The license was originally issued in 1930, and with the improved accuracy of our current GIS mapping, the number of irrigated acres was measured at 99 (irrigation layout attached). Based on those 99 acres, and the department standard/licensed rate of 0.02 CFS per acre, the maximum diversion rate for this claim was recommended at 1.98 CFS.
 - a. The combined volume limit of 391 AF for 97-2017 and 97-7004 was added to address the overlapping water rights and ensure that the department's headgate limit for irrigated land is not exceeded. Water right no. 97-7004 includes 97-2017's entire Place of Use (POU), and also has a volume limit associated with it (243 AF for 161 AC). As water right 97-2017 did not originally include a volume limit, I have allowed for a maximum of 3 AF per acre for the 99 acres irrigated (297 AFY), which is the current limit set for that region by IDWR. The additional 62 acres of irrigated land included with 97-7004 (irrigation layout attached), which is not overlapped by 97-2017, was recommended with the volume limit of the original license, which is approximately 1.51 AF per acre. When accounting for the overlapping acres, the total combined maximum annual volume limit for the two rights must be 391 AFY.
3. The remark you are referring to for 97-7543 was added to allow for irrigation under this water right outside of the licensed season of use, but within the allowable irrigation season of use for that region. Water right no. 97-7543, which was the result of a split from original right no. 97-7061, includes a season of use from June 1 – October 15. However, the Department's allowable season of use for irrigation in that region is April 1 – October 31. The addition of that remark allows for irrigation outside of the licensed season of use, but any water use outside of the licensed season of use must be subordinated to other irrigation rights (without subordinated uses) to prevent potential injury to those rights.

I hope these explanations help to answer your questions and alleviate your concerns, but please reach out to me if additional information is needed. Also, as mentioned above, we do need to get some additional evidence/information before we can complete the recommendations for claim nos. 97-7541 & 97-7544. Please let me know when you may be available to discuss those, or if you'd prefer me to email you about those instead. Also, I haven't had time to review the additional claims recently filed by/for the Kalispel Tribe, but we may have more to discuss regarding those once I do.

I appreciate all your assistance as we work through our recommendations of these claims. Feel free to contact me with any questions you may have along the way, and I'll be happy to help wherever I can.

Best Regards,

~Evan

From: dylan@hedden-nicely.com <dylan@hedden-nicely.com>

Sent: Wednesday, February 26, 2025 6:58 AM

To: Roda, Evan <Evan.Roda@idwr.idaho.gov>

Cc: 'Scott Mannakee' <SMannakee@kalispeltribe.com>; 'Ray Entz' <rentz@kalispeltribe.com>; 'Claire Newman' <cnewman@kanjikatzen.com>

Subject: RE: Kalispel Water Right Claims (State Law, Basin 97) -- Part 1

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Good morning Evan,

After reviewing the directors report for Basin 97, Part 1, I am hoping to jump on a quick call/zoom with you to discuss a few things. Alternatively, I'd be glad to initially correspond via email, if more convenient for you. The thrust of our questions are:

1. For both 97-2017 and 97-7543 I am not seeing in my records a preliminary directors report. Do you have any records of having sent it?
2. **97-2017:**
 - The Tribe would like to better understand the basis for IDWR's recommendation of 1.98 cfs for this right, which is less than the 2.38 cfs that had been licensed.
 - Similarly, IDWR recommended a volumetric cap of 391 AF (and total acreage of 161 acres) for both 97-2017 and 97-7004. Could you please let us know the basis for this limitation, which we do not see on the license.
3. **97-7543:** Includes the following remark: "The use of water before June 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right." Can you help us to understand:
 - The basis for including this remark and/or why this water right falls into the "subordinated" category for early/late use?
 - Approximately how many unsubordinated rights exist near Goose Creek and how they were able to acquire an unsubordinated water right?

Thanks so much for all you do, Evan. We really appreciate your hard work and IDWR's commitment to this adjudication.

Dylan.