



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Department of Water Resources

Gentlemen:

Thank you for the opportunity to meet with you last Thursday (5/29/03). As agreed I was to initiate a review of the water rights records for the Elkhorn area and report back to the parties. Please find attached a listing or printout of the rights I have reviewed that appear germane to these matters. Please note there exists other rights of record on some upstream creeks in the area so this is not a comprehensive list of all rights. I have picked out the ones I believe are worth noting at this time.

For a more detailed description of these records with their specific conditions of approval and others rights in the area you may wish to do further research on the internet at:

<http://www.idwr.state.id.us/apps/ExtSearch/SearchWRAJ.asp>

As a matter of explanation the printout is colored to highlight the different types of records. Those with the light blue background are from the "historical" database. These records would include valid rights and potentially not valid rights (forfeited, abandoned or over claimed) and also valid rights whose records do not accurately reflect current use. The orange background rights are those currently on record as being claimed in the Snake River Basin Adjudication (SRBA). Again these claims may or may not be valid. Ultimately the SRBA review will sort through these records and the SRBA court will decree the valid rights. You will note that some rights are listed in both areas as expected. You may also note that some rights are only listed in the "historical" section but have not been claimed in the SRBA. This may have been done on purpose or there may be an omission.

The Lane Ranch Homeowners Association has historical rights of record and have claimed several in the SRBA. Rights 37-81 and 37-82 are decreed rights confirmed in the 1909 Frost Decree. *In that decree Elkhorn Creek is not listed as a "dry stream" and would be presumed to be subject to priority calls on the Big Wood River. NOTE: I understand that traditionally the watermaster on the Big Wood River has not regulated Elkhorn Creek to provide water to senior right holders on the Big Wood River.* Right 37-4016 is a statutory claim based on beneficial use. Right 37-7201 is a licensed right. All of these rights have been modified by approved transfers to change the nature of use from irrigation to include components of aesthetic, recreation, and wildlife use elements. In the transfer process certain combined limits were imposed on their use. Particularly rights 37-81 and 37-82 are limited in use for irrigation to 0.71 cfs. (For more detail visit the internet or our office) *Note that the tracts listed for these elements do not appear to be the way the uses have been developed or there was an error in the transfer process (record shows NESW of S20 for the pond but use appears to be NWSW S20). In any event there appears to be a need to correct the record by filing a new transfer.*

One question discussed during our meeting was whether or not rights 37-82 and 37-7201 are additive. I must conclude that they are and when combined would represent 2.20 cfs. I would also conclude that with the addition of 37-4016 one could not demand more than 2.20 cfs after filling of the 17.5 af storage. Records 37-2133, 37-2134, 37-2574 and 37-2635 once associated with the Lane Ranch properties appear to have been abandoned. None of these have been claimed in the SRBA. It is interesting to note that record 37-2635 is for the development of the "horizontal well" or "drain" discussed at the meeting. My review of a 1964 aerial photo shows a "drain" or "horizontal well" but later photos show it is filled in. I find that the outfall of the "drain" was where the "Sunshine Pond" is now located, the excavated portion was in the area back toward the current subdivision location. This same photo shows that Elkhorn Creek had already been straightened at that time and the channel appears to be where it presently exists. One can also see the meandering feature of a flood channel or the original channel. (Attached is a copy of a portion of the photo for reference)

Right 37-7148 is for numerous ponds in the Elkhorn Resort area upstream from the Lane Ranch. This right was licensed and was predicated on being non-consumptive and on water being imported or developed in the basin as a result of the development. *NOTE: this right has not been claimed in the SRBA which appears to be an omission.*

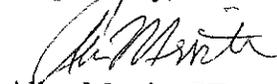
During the meeting it was mentioned that Brockway Engineering may have additional flow records for Elkhorn Creek and would provide same to the department. Please provide copies of measurements to this office.

During the meeting it was discussed that a plan be developed for water measurement to determine the impact, if any, that occurs due to the Stream Channel Alteration Permits 37-S-1120 and 1120A and or the beaver. I view these as two separate matters. Since the water is currently bifurcated and may have been running for some time it appears the opportune time to measure water to attempt to determine the impact of the SCA on the creek. I propose that at the expense of the Wood River Land Trust with

over site by the department with concurrence of Lane Ranch that a temporary weir be placed above the bifurcation using sand/gravel bags and plastic and then for a short period (time dependant on stabilization of measurements) that all water be allowed (using sand/gravel bags) to flow in the rehabbed portion. Measurements would be taken on both the temporary weir and the cipolletti weir above the Lane Pond. After data is collected then all the water would then be placed back into the straight channel and allowed to flow with measurements again taken. The data would then be analyzed by the department to determine if mitigation water needs to be provided and to what extent if water is to be permanently allowed to be channeled into the rehabilitated section. I can see that this plan may not be perfect and requires the cooperation of many. Detail to be worked out may include salvage of fish during the test, permit approval from the COE, permission of landowners, etc.

If you have questions about the water rights please feel free to contact this office. If the measurement plan has promise of being worked out maybe we could soon schedule a phone conference to work on details. Please provide me your thoughts.

Respectfully,



Allen Merritt, PE
Southern Region Manager

CC: Dave Parrish – F&G
City of Sun Valley
COE
BLM
Watermaster District 37
Tim Luke, Terry Blau - IDWR

Basin/Issue Basis	Priority Date	Priority Date	Volume (Acre-Feet)	Volume (Acre-Feet)	Source	Water Use(s)	Owner(s)	Source Table
37 81 Decreed	1884-06-01		4		BIG WOOD RIVER	AESTHETIC, IRRIGATION, RECREATION, WILDLIFE	IDAHO FOUNDATION FOR PARKS & LANDS INC (Current); LANE RANCH HOMES ASSN INC (Current Owner)	w/Ajudication/Claim
37 82 Decreed	1884-06-01		1.2		ELKHORN CREEK	AESTHETIC, IRRIGATION, RECREATION, WILDLIFE	IDAHO FOUNDATION FOR PARKS & LANDS INC (Current); LANE RANCH HOMES ASSN INC (Current Owner)	w/Ajudication/Claim
37 4016 Statutory	1884-04-01		10		17 ELKHORN CREEK	AESTHETIC STORAGE, DIVERSION TO STORAGE, RECREATION STORAGE, WILDLIFE STORAGE	LANE RANCH HOMES ASSN INC (Current Owner)	w/Ajudication/Claim
37 7201 License	3/21/1973		1		ELKHORN CREEK	AESTHETIC, RECREATION, WILDLIFE	LANE RANCH HOMES ASSN INC (Current Owner)	w/Ajudication/Claim
37 81 Decreed	1894-06-01		4		BIG WOOD RIVER	AESTHETIC, IRRIGATION, RECREATION, WILDLIFE	CASCEA ASSOCIATES INC (Current); HORMEL, THOMAS D (Current)	w/WaterRight
37 82 Decreed	1894-06-01		1.2		ELKHORN CREEK	AESTHETIC, IRRIGATION, RECREATION, WILDLIFE	CASCEA ASSOCIATES INC (Current); HORMEL, THOMAS D (Current)	w/WaterRight
37 2133 License	4/28/1908		0.4		BIG WOOD RIVER	AESTHETIC, IRRIGATION, RECREATION, WILDLIFE	BONNING JR, JAMES (Current)	w/WaterRight
37 2134 License	4/28/1908		0.2		ELKHORN GULCH CREEK	DOMESTIC, IRRIGATION	BONNING JR, JAMES (Current)	w/WaterRight
37 2574 License	11/15/1855		0.28		TRAIL CREEK	DOMESTIC, IRRIGATION	BONNING JR, JAMES (Current)	w/WaterRight
37 2635 License	7/7/1960		2.5		GROUND WATER	IRRIGATION	LANE, J P (Current)	w/WaterRight
37 4016 Statutory	1884-04-01		10		17 ELKHORN CREEK	AESTHETIC STORAGE, DIVERSION TO STORAGE, RECREATION STORAGE, WILDLIFE STORAGE	CASCEA ASSOCIATES INC (Current)	w/WaterRight
37 7148 License	5/31/1972		0.4		17.5 UNNAMED STREAMS	RECREATION, RECREATION, WILDLIFE	ELKHORN AT SUN VALLEY (Current)	w/WaterRight
37 7201 License	3/21/1973		1		ELKHORN CREEK	AESTHETIC, RECREATION, WILDLIFE	CASCEA ASSOCIATES INC (Current)	w/WaterRight
37 14751 Decreed	8/28/1934		0.02		ELKHORN GULCH CREEK	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH (Current)	w/WaterRight

