

# Memorandum

**To:** Sean Vincent

**From:** Tim Luke

**Date:** March 12, 2009

**Re:** Request for Staff Review of Letter from Brockway Engineering regarding Non-Injury from Diversion of Water to Aesthetic Diversion Channels from the Big Wood River

---

Jeff Peppersack recommended I forward the attached letter from Brockway Engineering dated February 23, 2009. He has asked if Hydrology Section staff can review the letter and provide some comments to us regarding questions of the consumptive use and injury associated with the diversion of water from the Big Wood River to aesthetic ditch channels that parallel the river between Ketchum and Hailey near Gimlet.

Brockway's letter is in response to guidance given to the Water District 37 (Big Wood River) watermaster last year by IDWR to regulate the two aesthetic diversions. Water right 37-7822 (copy attached) is a 1980 priority right that authorizes diversion of up to 20 cfs to the two diversion points and channels. Note that condition 11 on the license states:

“Upon a future determination by the Department that water is lost to the injury of prior right holders, the losses shall be replaced from a source acceptable to the Department.”

Last year IDWR provided guidance to the watermaster stating that right 37-7822 should be curtailed or mitigated if uses on these channels are found to be consumptive. The watermaster made several measurements of the channels last year between the points of diversion and the return flow location and found some significant losses. Continued measurement of the channels may confirm that losses are consistent. Although I believe further monitoring is warranted, Brockway has requested that IDWR make a determination that any diversion of water to these channels is non-consumptive and causes no-injury to other rights. The correspondence from Brockway attempts to provide some justification of their position.

I have looked for other water right points of diversion along the river reach that parallels the diversion channels. I find only one diversion from this river reach, located near the end of the reach and just above the return flow point. The diversion includes three senior rights for irrigation of 1 acre and a combined diversion of 0.06 cfs (1886, 1889 and 1890 priorities). Of course, there are numerous senior water right diversions below this reach. The question is would diversion into the channels cause any injury to senior downstream right holders.

Brockway is looking for a response prior to the commencement of irrigation season. Any review you could provide prior to April 1 would be appreciated. We do intend at least to instruct the watermaster to regulate the diversions in accordance with the volume limit of the right and also make a thorough investigation of the channels for any obvious explanations of loss due to unauthorized diversions etc. Please see the letter and attached documents for further detail.