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37.03.12 - IDAHO DEPARTMENT OF WATER RESOURCES WATER DISTRIBUTION RULES - WATER DISTRICT 34

000. LEGAL AUTHORITY (Rule 0).
The Idaho Department of Water Resources (IDWR) is authorized under Section 42-603, Idaho Code, to adopt rules for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources. (10-26-94)

001. TITLE AND SCOPE (Rule 1).
These rules shall be cited in full as "Idaho Department of Water Resources Water Distribution Rules - Water District 34". This chapter contains the rules which shall govern the distribution of surface and ground water within Water District 34, the Big Lost River Basin, by the duly appointed watermaster pursuant to the provisions of Chapter 6, Title 42, Idaho Code, and applicable court decrees. This chapter shall not be construed to limit the authority of the Director of the Idaho Department of Water Resources in exercising the duties and responsibilities of the director or the department under other provisions of Idaho law. (10-26-94)

002. WRITTEN INTERPRETATIONS (Rule 2).
In accordance with Section 67-5201(16)(b)(iv), Idaho Code, this agency does not have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. (10-26-94)

003. ADMINISTRATIVE APPEALS (Rule 3).
Appeals of actions and determinations by the director pursuant to the rules of this chapter may be taken in compliance with Section 42-1701A, Idaho Code, and the "Rules of Procedure of the Department of Water Resources", IDAPA 37.01.01. (10-26-94)

004. SEVERABILITY (Rule 4).
The rules governing this chapter are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (10-26-94)

005. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).
For the purposes of these rules, the following terms will be used as defined below. (10-26-94)

01. 2-B Gage. The U.S. Geological Survey gaging station located below Mackay Dam in the SW1/4SW1/4NE1/4, Section 18, Township 7 North, Range 24 East, B.M. (10-26-94)

02. Acre-foot (AF). The unit commonly used to measure a volume of water which is equal to the amount of water to cover one (1) acre of land one (1) foot deep and is equal to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons. (10-26-94)

03. Acre-foot per year (AFY). Acre foot per calendar year. (10-26-94)

04. Arco Gage. The U.S. Geological Survey gaging station located near the town of Arco in the SW1/4SE1/4SW1/4, Section 17, Township 3 North, Range 27 East, B.M. (10-26-94)

05. Conjunctive Administration. When two (2) or more water sources are to be administered as a single water system, diversion pursuant to junior rights from one water source shall be regulated as provided by these rules to provide water to senior rights from the other water source. (10-26-94)

06. Cubic Foot per Second (CFS). The unit used to express a rate of flow of water equal to fifty (50) miner's inches or about four hundred forty-eight and eight tenths (448.8) gallons per minute. (10-26-94)

07. Delivery Call. A request from the holder of a water right for administration of water rights under

the prior appropriation doctrine. (10-26-94)

08. Director. The Director of the Idaho Department of Water Resources (IDWR) or the director's duly authorized designee. (10-26-94)

09. Eastside Canal. The Eastside Canal diverts from the east side of the Big Lost River in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. and extends southerly to the point it discharges back into the Big Lost River in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. (10-26-94)

10. Holder of a Water Right. The legal owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose. (10-26-94)

11. Howell Gage. The U.S. Geological Survey gaging station located above Mackay Reservoir in the SE1/4NE1/4NW1/4, Section 30, Township 8 North, Range 21 East, B.M. (10-26-94)

12. Rotation Credit. Water impounded in Mackay Reservoir pursuant to a water right whose source of water is the Big Lost River and which does not include storage as a purpose of use. The impoundment of water as rotation credit is described in Rule Subsection 040.02. (10-26-94)

13. Small Domestic and Stock Water Uses. Water uses meeting the definition of Section 42-111 or Section 42-1401A(12), Idaho Code. (10-26-94)

14. SRBA. The Snake River Basin Adjudication of water rights is Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987 entitled In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System, which was commenced pursuant to Section 42-1406A, Idaho Code (1987). (10-26-94)

15. Storage Water. Water impounded in a storage facility, including Mackay Reservoir, pursuant to a water right which includes storage as a purpose of use. (10-26-94)

16. Watermaster. The duly elected and appointed state watermaster of Water District 34 who is authorized to perform duties pursuant to Chapters 6 and 8, Title 42, Idaho Code, and the decree, or order for interim administration, of water rights for Basin 34. (10-26-94)

011. -- 019. (RESERVED).

020. ADMINISTRATION OF SURFACE WATERS WITHIN BASIN 34 (Rule 20).
All surface waters of the Big Lost River and its tributaries shall be administered as a single water system, except as provided in Rule Subsections 020.01 through 020.04. (10-26-94)

01. Connected River. During the period May 1 through October 15 of each year, from the time the flow at the Howell Gage increases to or exceeds a flow of seven hundred fifty (750) CFS, until the time when the flow recedes to a flow of three hundred (300) CFS or less, all surface waters of the Big Lost River and its tributaries, except as listed in Rule Subsections 020.02 and 020.04, shall be administered as a single water source. At all other times natural flow surface water rights (other than water rights for storage purposes) with a point of diversion upstream from Mackay Reservoir shall be administered separately from the natural flow surface water rights with a point of diversion downstream from Mackay Reservoir. This provision is made under conditions existing as of the commencement of the SRBA (including diversions above the Howell Gage); if diversions are made from the Big Lost River or its tributaries above the Howell Gage pursuant to rights not existing as of the commencement of the SRBA, then the amounts diverted will be added to the amount of the flow at the Howell Gage for the purposes of applying this rule. (10-26-94)

02. Separate Surface Water Sources. The surface waters of the following streams have been administered as separate water sources pursuant to the Utah Construction v. Abbott Decree, Equity No. 222 (1925) and shall continue to be administered as separate from the surface waters of the Big Lost River pursuant to these rules: Rock Springs Creek, Rock Creek, Beda Creek, Corral Creek, Sage Creek, Upper Cedar Creek, Lower Cedar

Creek, Dry Creek (also known as Cedar Creek), Pete Creek, Willow Creek, Pinto Creek, Lehman Creek, Vance Creek (also known as Elkhorn Creek), Grant Creek and Hamilton Creek. (10-26-94)

03. The Back Channel. The Back Channel, which separates from the main channel of the Big Lost River in the NE1/4NE1/4, Section 5, Township 8 North, Range 22 East, B.M., shall be administered as part of the natural channel of the Big Lost River. (10-26-94)

a. When the flow at the Howell Gage is less than one thousand four hundred (1,400) CFS, the flow in the Back Channel shall be kept as near as practicable to one hundred fifty (150) CFS as determined by the director, but shall not exceed that amount. It is the responsibility of the appropriators diverting from the Back Channel to adjust the flows into the Back Channel when so instructed by the watermaster to comply with this rule. (10-26-94)

b. When the flow of the Howell Gage is at or exceeds one thousand four hundred (1,400) CFS, the flow in the Back Channel shall be kept as near as practicable to two hundred (200) CFS as determined by the director. The flow shall not exceed that amount unless all surface water rights existing at the time of administration (including water rights with a junior priority), and that are within their period of use, are satisfied. It is the responsibility of the appropriators diverting from the Back Channel to adjust the flows into the Back Channel when so instructed by the watermaster to comply with this rule. (10-26-94)

c. These provisions shall not be considered to enlarge the amount of water to which appropriators diverting from the Back Channel are entitled. (10-26-94)

d. The water users of Water District 34 may by resolution duly adopted at an annual meeting of Water District 34 determine that a measuring device and control works are to be installed at the head of the Back Channel. In this event, the costs of installation and maintenance shall be borne by the water users of Water District 34 as costs of the water district in the manner prescribed by statute. The measuring device and control works shall be of a type approved by the director, and must be approved prior to installation. This rule does not relieve or waive any requirement to comply with federal, state or local requirements for building and operating the structure. (10-26-94)

04. Futile Call for the Delivery of Surface Water. When curtailment of junior upstream surface water rights will not make water available for delivery and use to senior downstream surface water rights, without unreasonable waste as determined by the director, the watermaster will not curtail the junior water rights in a futile effort to deliver water to the senior rights. The director may consult the Water District 34 advisory board, the Big Lost River Irrigation District and other impacted water users when determining whether attempting to deliver senior downstream surface water rights would be futile. (10-26-94)

021. -- 024. (RESERVED).

025. RIVER REACHES (Rule 25).

01. Divisions of the Big Lost River. For the purposes of quantifying river gains, losses, and calculating and accounting for natural flow, but not for determining when the river is connected as described in Rule Subsection 020.01, the Big Lost River shall be divided into the reaches identified below. Reference to a specific river reach will be by the name of the downstream station or terminus point. (10-26-94)

a. Above Howell Gage. (10-26-94)

b. Howell Gage to Chilly Bridge located in the NW1/4NE1/4NW1/4, Section 5, Township 8 North, Range 22 East, B.M. (10-26-94)

c. Chilly Bridge to the 2-B Gage. (10-26-94)

d. 2-B Gage to Leslie Gage located in the NW1/4SW1/4SE1/4, Section 10, Township 6 North, Range 25 East, B.M. (10-26-94)

e. Leslie Gage to Moore diversion located in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. (10-26-94)

f. Moore diversion to Arco diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. (10-26-94)

g. Below Arco diversion to the Arco Gage. (10-26-94)

02. River Reach Computations. For each reach of the river the natural flow will be computed as the natural flow entering the reach plus gains entering the reach minus losses from the reach. The natural flow thus calculated will be allocated as described in Rule 40. (10-26-94)

03. Gage Station or Other Flow Measuring Facility. A gage station or other flow measuring facility, as approved by the director, shall be located at the Howell Gage, Chilly Bridge, 2-B Gage, Leslie Gage, Moore diversion, Arco diversion and Arco Gage. The Howell, 2-B and Arco gages shall be maintained as part of the USGS Cooperative Program, or equivalent measurement program, and operated continuously. Water District 34 shall continue to contribute to the maintenance and operation of these gage sites in the same proportion as is currently contributed. All other gages shall be operated when water diversions, other than solely storage in Mackay Reservoir, are being made from the river. The cost of installation, operation and maintenance of these other measuring facilities is the responsibility of Water District 34. (10-26-94)

026. -- 029. (RESERVED).

030. NATURAL FLOWS (Rule 30).
Natural flow shall be delivered through the natural river channel to the point of diversion of record except as provided in these rules. (10-26-94)

01. Eastside Canal. The watermaster, with the approval of the director and after consultation with the Big Lost River Irrigation District, may elect to deliver the natural flow of the river through the Eastside Canal when the following conditions are met: (10-26-94)

a. The full flow of the river, including impounded water, to be delivered downstream of the Moore diversion is not greater than the capacity of the Eastside Canal. (10-26-94)

b. More natural flow water can be delivered to calls for natural flow than could be delivered by using the natural river channel. (10-26-94)

c. No water right is injured. (10-26-94)

d. Measuring devices of a type acceptable to the director are installed and maintained where the flow leaves the river channel and where it returns to the river channel. (10-26-94)

e. When used for the delivery of natural flow to the Arco diversion, the Eastside Canal is considered to be the river channel for water delivery accounting purposes and the watermaster shall protect the natural flow for delivery to prior water rights. Water rights diverting water from the river channel downstream from the point the Eastside Canal returns to the river channel shall be measured at their point of diversion from the river downstream from the Eastside Canal return. (10-26-94)

f. Conveyance losses in the Eastside Canal, when considered to be the river channel, shall be proportioned between the river flow, the diversions from the Eastside and pumps that inject ground water into the Eastside Canal. The proportioning will be based upon the ratio of total Eastside diversions and injected ground water to the total inflow to the canal. (10-26-94)

02. Alternate Point of Diversion. The watermaster may elect, with the approval of the director, to deliver natural flow water rights to the alternate point of diversion described in Rule Subsection 030.02.a. below when conditions in Rule Subsections 030.02.b. through 030.02.f. below are met: (10-26-94)

a. This rule may be used to deliver water rights through the Munsey diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. as an alternate point of diversion for water

rights with a recorded point of diversion at the McLaughlin diversion located in the NE1/4NW1/4SE1/4, Section 12, Township 3 North, Range 26 East, B.M. (10-26-94)

b. The additional delivery losses through the natural channel to the recorded point of diversion for a water right prevents delivery of natural flow to one (1) or more other water rights then calling for water. (10-26-94)

c. The user receives the same amount of water at the field headgate from the natural flow water right that would be delivered to the field headgate had the natural flow right been delivered at the recorded point of diversion. (10-26-94)

d. Delivery of the water right at the alternate point of diversion is limited to the period of time the water right could have been delivered to the recorded point of diversion based upon the natural flow available at any time delivery is called for and the loss of the river channel at the time the alternate point of diversion began to be used for the delivery of this water right. (10-26-94)

e. No water right is injured by the use of the alternate point of diversion. (10-26-94)

f. The owner of the diversion works at the alternate point of diversion and the ditch(es) used to deliver the water to the field headgate from the alternate point of diversion concurs in the use of those facilities. (10-26-94)

031. -- 034. (RESERVED).

035. MEASURING DEVICES AND CONTROL WORKS (Rule 35).

01. Installation and Maintenance of Measuring Devices and Control Works. In addition to measuring devices or control works specifically described in the listing of the water right, each water user, except small domestic and stock water users from ground water, shall, at the water user's expense, install and maintain measuring devices and control works of a type acceptable to the director, at all points of diversion and any other points, as determined necessary by the director for the proper administration of the use of water. The director may prohibit or prevent the diversion of water by a water user who refuses or fails to comply with this rule in accordance with the provisions of Chapter 7, Title 42, Idaho Code. (10-26-94)

02. Measuring Ground Water Diversions. All ground water diversions, excluding small domestic and stock water diversions, shall be measured by one of the following methods. Any ground water diversion requiring an instantaneous flow measurement as described in Rule Subsection 035.02.a. or for checking of an in-line flow meter as described in Rule Subsection 035.02.b. which is not properly configured to permit an accurate measurement must comply with Rule Subsections 035.03.a. through 035.03.c. (10-26-94)

a. Instantaneous flow rate will be measured by the water district utilizing a polysonic flow meter or other means of measuring instantaneous flow acceptable to the director. Annual volume will be determined by electrical power consumption records which the water user must release from the electrical energy provider to the watermaster. (10-26-94)

b. Where an in-line flow meter with totalizing capabilities is installed, the meter will be periodically checked for accuracy by the water district staff. (10-26-94)

c. An open channel measuring device of a type and installed in a location acceptable to the director will be read and recorded daily by water district staff. (10-26-94)

03. System Configuration for Accurate Measurements. All ground water diversions, excluding small domestic and stock water uses, shall configure their diversion systems so that accurate measurement can be accomplished. The polysonic flow meter requires a straight and uniform section of pipe which is free from obstructions, valves and couplings for a minimum distance of ten (10) pipe diameters upstream from the measurement site and five (5) pipe diameters downstream from the measurement site. If a pump is nearby up to thirty (30) pipe diameters of a straight uniform pipe section may be required upstream from the measurement site. (10-26-94)

a. If an accurate measurement of a ground water diversion can not be accomplished, the water user shall be required to provide, at the water user's expense, an annual determination of the system capacity certified by a qualified engineer licensed in the state of Idaho. The certification shall include the relationship which can be used, under conditions at the time of the certification, to relate the volume of water pumped to the electrical energy used by the pump. (10-26-94)

b. If the certified system capacity exceeds the diversion rate of the water right for the ground water use, the water user shall, at the water user's expense, modify the diversion to limit the system capacity to no more than the diversion rate of the water right and shall have the capacity and power usage of the system, as modified, recertified by a qualified engineer licensed in the state of Idaho. (10-26-94)

c. For purposes of these rules, at all times when water is being diverted from a diversion that is required to have the diversion capacity certified under this rule, the diversion rate will be assumed to be the system capacity. The annual volume of water pumped will be determined by the power consumption records, which the water user must release from the electrical energy provider to the watermaster, and the power usage relationship included with the system capacity certification. (10-26-94)

04. Access to Diversion Works. Water users shall provide the water district staff continual access to all diversion works, measuring devices and control structures, except ground water diversions for small domestic and stock water uses. (10-26-94)

05. Diversions Which May Be Exempt. Diversions below the Chilly Bridge and above the Mackay Reservoir that divert water from the Big Lost River, whose place of use is within the flood plain of the Big Lost River as determined by the director, may be exempt from the requirement for measuring devices and control works with the approval of the director. Flow rates through exempt diversions will be estimated by the watermaster for accounting purposes by assuming the recorded flow rate of the water right is being diverted. (10-26-94)

06. Good Cause for Exemption. The director may exempt water users from the requirement to install measuring devices and or control works for good cause shown. Good cause will include diversions which can not be measured or controlled due to flooding conditions at the diversion for a significant portion of the year when water is available for diversion so as to render a measuring device or control works impractical. (10-26-94)

07. Measuring Devices and Control Works - Water Conveyance Entities. Irrigation districts, canal companies and other water conveyance entities diverting from any natural channel through which natural flow is being carried shall install and maintain measuring devices and control works of a type acceptable to the director at their point(s) of diversion. Measuring devices and control works thus installed and maintained will replace the requirement of individual measuring devices and control works at these locations for each water user. (10-26-94)

036. -- 039. (RESERVED).

040. ALLOCATION OF NATURAL FLOW (Rule 40).

01. Administration of Surface Water Rights. Administration of surface water rights is based upon the list of water rights approved for interim administration by the court or as subsequently decreed by the court in the SRBA. Water not diverted or rotated for credit is available for the next in time water right. Natural flow rights are delivered to the point of diversion with no conveyance loss assessment. A natural flow water right delivered through a lateral or canal of a water conveyance entity shall be assessed the conveyance loss for the canal through which the water right is delivered. (10-26-94)

a. All natural flow will be allocated based upon a four (4) day moving average of the natural flow computed by the watermaster. (10-26-94)

b. All water deliveries must be called for by the water user at least forty-eight (48) hours in advance of the actual water delivery. Water which can be delivered by the watermaster in less than forty-eight (48) hours may be used by the water user. (10-26-94)

c. The water user must notify the watermaster of the water users intent to use water as required by Rule Subsection 040.05. (10-26-94)

02. Rotation Credit. Water rights that do not include storage as a purpose of use may not be stored. Water rights whose source is Big Lost River with their point of diversion below the Mackay Dam may, however, be rotated for credit when such practice improves the efficiency of water use as contemplated by the Big Lost River Irrigation District's plan of operation subject to the following conditions: (10-26-94)

a. Rotation for credit must be approved by the director as provided by these rules. (10-26-94)

b. Rotation for credit must be pursuant to the Big Lost River Irrigation District's approved plan of operation. (10-26-94)

c. Any water credited under such a rotation, if not used in the same irrigation season in which it is credited, shall become storage water of the Big Lost River Irrigation District at the end of the irrigation season. (10-26-94)

d. Rotation for credit cannot occur prior to the need for irrigation water on the land, as determined pursuant to these rules, in any year. (10-26-94)

i. Natural flow must be available at the river headgate point of diversion for the water right requesting rotation credit. (10-26-94)

ii. The water user must have operable delivery and use facilities and an actual need for the water on the land in the year rotation is sought. (10-26-94)

iii. If natural flow can not be delivered to a point of diversion at the beginning of the irrigation season and the watermaster determines rotation credit is needed to make possible the delivery of water rights being called for, and there is room in Mackay Reservoir for rotation credit, the watermaster may rotate natural flow rights, which would not otherwise be deliverable to their point of diversion, for credit of up to a combined total of three thousand five hundred (3,500) AF to be released from the reservoir under the control of the watermaster to make natural flow rights deliverable to their point of diversion. The watermaster may use storage water to assist the delivery of natural flow water rights at the beginning of the irrigation season when requested to do so by the storage holder. (10-26-94)

e. Water rotated for credit may only be used on the land to which the water right being rotated is appurtenant (water rotated for credit may not be marketed) except under the provisions of Section 42-222A, Idaho Code. (10-26-94)

f. If the reservoir fills after rotation has begun in any year, (or would have filled except for flood operations) and the natural flow is sufficient to allow diversion of water by 1905 or junior water rights while the reservoir is full, all rotation credits accrued at that time are lost and all water in Mackay Reservoir at that time becomes storage water of the Big Lost River Irrigation District for reallocation. For purposes of this rule Mackay Reservoir will be considered full when the elevation of the water in the reservoir reaches or exceeds a four (4) day average of six thousand sixty-six and twelve one hundredths (6,066.12) feet MSL (spillway crest). Rotation for credit stops at the time Mackay Reservoir fills, and while it remains full, but if the natural flow does not increase sufficiently to allow 1905 or junior water rights to divert after the reservoir fills the rotation credit in the reservoir shall remain the credit of the water user(s) who accrued the rotation credit. (10-26-94)

g. Water rights being rotated must be identified to the watermaster as being rotated into Mackay Reservoir. Water rights identified as such will have the Mackay Reservoir as the temporary point of diversion during the time rotation is occurring. (10-26-94)

h. The rate of diversion for a water right being rotated for credit combined with other water rights for the same place of use being diverted at the same time cannot exceed the combined diversion limit specified in the listing of water rights. This rule does not limit the rate at which rotation credit, once impounded, can be used. (10-26-94)

03. Assessment of Evaporation and Conveyance Losses to Impounded Water. (10-26-94)

a. Evaporation losses from Mackay Reservoir shall be estimated daily by the watermaster by applying correlated evapotranspiration data from the Aberdeen hydromet station to the Mackay Reservoir and shall be assessed to all impounded water. (10-26-94)

b. Conveyance losses in the natural channel shall be proportioned by the watermaster between natural flow and impounded water. The proportioning shall be done on a river reach basis. Impounded water flowing through a river reach that does not have a conveyance loss will not be assessed a loss for that reach. Impounded water flowing through any river reach that does have a conveyance loss will be assessed the proportionate share of the loss for each losing reach through which the impounded water flows. To avoid an iterative accounting procedure, impounded water conveyance loss from the previous day shall be assessed on the current day. (10-26-94)

i. An exception is made for impounded water delivered through the Beck and Evan diversion located in the SW1/4SE1/4SW1/4, Section 11, Township 6 North, Range 25 East, B.M. Conveyance loss for this impounded water will be assessed the conveyance loss of the Leslie reach, if any, and the additional conveyance loss to the Beck and Evan diversion but not the conveyance loss of the entire Moore reach. (10-26-94)

04. Initiation and Duration of Surface Water Allocation for Irrigation. Any time after May 1 an irrigation water user can make a delivery call on the natural flow if the water user can make beneficial use of the water for irrigation. If sufficient natural flow exists to deliver the called for water right in a useable amount to the water users place of use, the watermaster shall deliver the right. In addition, the director may allow the diversion of rights or portions of rights for irrigation use from the Big Lost River as early as April 20 and as late as October 31, and from surface water tributaries to the Big Lost River either before or after the period of use for irrigation described in the water right where: (10-26-94)

a. The water so diverted is applied to a beneficial use resulting in an immediate benefit to growing plants or is necessary to allow performance of an agricultural practice generally accepted in the community, as determined by the director. (10-26-94)

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. (10-26-94)

c. The diversion and use of the water does not conflict with the public interest as determined by the director. (10-26-94)

05. Notice to Initiate Delivery. Water users must initiate delivery of their water right(s) by notifying the watermaster that they are ready to put water to beneficial use. (10-26-94)

06. Diversion of Additional Flows. The director may allow the diversion of surface water in addition to the quantity of surface water described in a water right for irrigation use to be diverted for irrigation of the described place of use where: (10-26-94)

a. The waters so diverted are applied to a beneficial use, as determined by the director. (10-26-94)

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of water rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. (10-26-94)

c. The diversion and use of the water does not conflict with the public interest as determined by the director. (10-26-94)

d. Additional flows diverted pursuant to Rule 040.06 are natural flows and will not be assessed as impounded water. (10-26-94)

07. Mackay Dam Minimum By-Pass. Mackay Dam and Reservoir shall be operated to maintain a

minimum flow of fifty (50) CFS at the 2-B gage. (10-26-94)

08. Canal or Lateral Delivery. In the event a water user feels inappropriate delivery of natural flow water is occurring on any lateral or canal, the water user can request the watermaster to investigate. In the event the watermaster determines that delivery of natural flow water rights within a lateral or canal is being improperly conducted he shall: (10-26-94)

a. Notify the ditch rider and the water delivery entity of the results of his investigation and coordinate efforts to make proper delivery of the natural flow. (10-26-94)

b. If the situation has not been sufficiently resolved within twenty-four (24) hours the watermaster will notify the director who may take all actions authorized by law to remedy the situation. (10-26-94)

041. -- 044. (RESERVED).

045. ADMINISTRATION OF GROUND WATER RIGHTS (Rule 45).
Administration of ground water rights is based upon the list of water rights approved for interim administration by the court or as subsequently decreed by the court in the SRBA. Should curtailment of ground water rights become necessary to protect a senior ground water right(s), administration will be based upon reasonable pumping levels and the prior appropriation doctrine as required by law. (10-26-94)

046. -- 049. (RESERVED).

050. CONJUNCTIVE ADMINISTRATION OF GROUND AND SURFACE WATER RIGHTS (Rule 50).

01. Conjunctive Administration - Exceptions. All ground water rights shall be administered conjunctively as part of the Big Lost River and tributaries unless the ground water user can show to the satisfaction of the director, that due to well construction or location, the diversion of ground water from a particular point of diversion does not reduce the flow of the Big Lost River above the last (most downstream) diversion from the Big Lost River. An exception to conjunctive administration in Water District 34 exists for those ground water rights in the list of water rights containing a remark noting that the right will be administered as separate from the Big Lost River and its tributaries. (10-26-94)

02. Water Rights Not Subject To Administration. Small domestic and stock water rights from ground water are not subject to administration at this time; however, these rights may be made subject to administration in the future to provide water to senior water rights from the water system. (10-26-94)

03. General Rule. Data currently available to IDWR shows ground water rights that are to be administered conjunctively with surface water deplete the flows of the Big Lost River downstream from Mackay Dam. Surface water users with water rights from the Big Lost River with points of diversion downstream from Mackay Dam are not required to seek curtailment of or mitigation by junior ground water rights and may develop water rights to supplement their Big Lost River water rights as provided by law. (10-26-94)

04. Mitigation/Augmentation. Water users with water rights whose source is Big Lost River with their point of diversion downstream from Mackay Dam who seek to have the water supply for their water right augmented to provide for their water right the water supply that would have been available for diversion absent the diversion of ground water under junior water rights shall request mitigation pursuant to this rule. Water users who seek such mitigation from ground water users must notify the watermaster at the time those water users make their initial request to the watermaster for delivery of their water right of their desire for mitigation. Mitigation of the effects of ground water diversion, when requested, will occur as more fully described below. (10-26-94)

a. Mitigation will not occur prior to May 1 or after October 15 of any year. (10-26-94)

b. Mitigation will be available to water rights with 1905 and earlier priority dates. (10-26-94)

c. Water rights will be eligible to receive mitigation through augmented natural flow water supply based upon a river depletion due to ground water diversions currently estimated to be thirteen percent (13%) of the

average annual diversion from wells subject to conjunctive administration currently estimated to be forty-seven thousand (47,000) AFY or a depletion of six thousand one hundred ten (6,110) AFY. The estimated percentage of depletion and annual volume of diversion from wells will be reviewed annually by the director and modified as data becomes available to refine these estimates. Any revised estimate of depletion or annual diversion shall be presented to the water users at the annual meeting of Water District 34 prior to adoption of the values by order of the director. (10-26-94)

i. Natural flow will be assumed to be augmented by one-third (1/3) of the depletion during the first one-half (1/2) of the period of time that any 1905 or earlier water right being called for can not be filled by the natural flow through October 15 of each year. Natural flow will be assumed to be augmented by two-thirds (2/3) of the depletion during the second one half (1/2) of this period each year. (10-26-94)

ii. Water users who have requested mitigation and who have water rights being called for that could be filled by augmentation described in Rule Subsection 050.04.c.i shall be provided with water by augmenting the natural flow to the extent of their water right or the amount of water described in Rule Subsection 050.04.c.i., whichever is less. (10-26-94)

iii. Augmentation of natural flow for purposes of mitigation may be accomplished by making additional water available for diversion from the Big Lost River, including increased river flows resulting from recharge efforts approved by the director, or by adding water to canals or laterals. (10-26-94)

iv. In any year in which the ground water users believe the annual diversion from ground water for the year will be significantly less than the estimated annual diversion from ground water described above, the ground water users may present their evidence of the anticipated diversions to the director by May 1 of the year along with a request to modify the estimated annual diversion for the year. Upon a determination by the director, based upon the information presented by the ground water users, that the annual diversion from ground water for the year being considered will be less than the annual average, the director will set an estimated ground water diversion for the year to be used for conjunctive administration as described in this rule. (10-26-94)

d. Water District 34 is authorized to acquire, through the watermaster, water supplies necessary to augment natural flow for mitigation purposes as described in this rule. The watermaster will add the cost of acquiring the mitigation water to the annual assessment of ground water users subject to conjunctive administration, who do not provide separate augmentation pursuant to Rule Subsection 050.04.c.iii. or separate mitigation pursuant to a plan approved as provided by Rule Subsection 050.04.e., in the same proportion as each ground water user is assessed for the costs of the water district relative to all other ground water users. Ground water users who fail to pay the assessed costs for acquiring mitigation water shall be penalized in the same manner as any other water user failing to pay any water district assessment. (10-26-94)

e. Junior ground water users may submit an alternative mitigation plan(s), which identifies actions and measures to prevent or compensate for impacts of diversions by the junior ground water users, to the director for consideration pursuant to Rule 43 of the "Rules for Conjunctive Management of Surface and Ground Water Resources", IDAPA 37, Title 03, Chapter 11. (10-26-94)

05. Direct Interference. This rule does not prevent a senior surface water user from seeking curtailment and/or damages from a junior ground water user when the senior surface water user can show direct identifiable impact on the water supply for the senior water right as a result of the diversion of water pursuant to the junior ground water right. (10-26-94)

051. -- 054. (RESERVED).

055. WATER USAGE (Rule 55).

01. Firefighting Purposes. (10-26-94)

a. Firefighting purposes is an alternate use to which any water right may be put, and firefighting is recognized as a lawful use of water with or without a water right. (10-26-94)

b. Firefighting purposes means the use of water in times of emergency: to extinguish an existing fire on private or public lands, facilities, or equipment; to prevent an existing fire from spreading to private or public lands, facilities, or equipment within the vicinity of and endangered by an existing fire; and by firefighting personnel engaged in fighting an existing fire. Firefighting purposes does not include the use of water to prevent a fire from occurring in the future, the use of water for domestic purposes in regularly maintained firefighting stations, or the storage of water for fighting future fires. (10-26-94)

02. Diversion Volume for Irrigation. The maximum annual volume of water reasonably required at the field headgate for irrigation of lands in Basin 34 is three and five tenths (3.5) AFY per acre. Where diversion volume is not stated for water rights or portions of water rights in the list of water rights for irrigation purposes, allocation of water for those water rights will not be limited by volume at this time. (10-26-94)

03. Amount of Combined Water Rights for Irrigation. Unless specifically stated otherwise in the water right, the combined use of more than one right for irrigation purposes is limited to: (10-26-94)

a. A combined total rate of diversion of two hundredths (0.02) CFS per acre for water rights from ground water, or a total combined rate of diversion of two hundred eighty-six ten thousandths (0.0286) cfs per acre for water rights from surface water. (10-26-94)

b. A combined total annual diversion volume of three and five tenths (3.5) AFY per acre, or a greater volume per acre as provided in Rule Subsection 055.02. (10-26-94)

c. A combined total annual consumptive use volume of two and five hundredths (2.5) AFY per acre. (10-26-94)

04. Conveyance Losses. The rate of flow generally required at the field headgate for irrigation of lands in Basin 34 is two hundredths (0.02) CFS per acre. (10-26-94)

a. The total per acre rate of diversion, measured at the point of diversion from a surface water source, shown for some rights is greater than two hundredths (0.02) CFS per acre. This is due to actual conveyance losses in the distribution system. Although diversion amounts greater than two hundredths (0.02) CFS per acre, but not greater than two hundred eighty-six ten thousandths (0.0286) CFS per acre, are not specifically identified in the water right, amounts in excess of two hundredths (0.02) CFS per acre that are not specifically identified in the surface water right are limited to use for conveyance losses. (10-26-94)

b. Some water rights are shown with a remark limiting the right or a portion of the right to use for conveyance losses in delivery of the right and/or other rights. When a remark is included in the listing of water rights limiting a right or a portion of a right to use for conveyance losses, the total per acre rate of diversion shown for the right (including conveyance losses specifically noted in remarks) is greater than two hundredths (0.02) CFS per acre for ground water rights and greater than two hundred eighty-six ten thousandths (0.0286) CFS per acre for surface water rights. (10-26-94)

c. In those cases in which the water right(s) includes an amount in excess of two hundredths (0.02) CFS per acre for conveyance loss, the total amount shown for the right(s) includes: (10-26-94)

i. The standard amount generally required for the purpose of use of the right, which includes reasonable conveyance losses associated with such uses, plus (10-26-94)

ii. An additional amount required for conveyance losses in the particular distribution system determined to be reasonable under currently existing conditions. (10-26-94)

d. Diversion of rights or portions of rights limited to use for conveyance losses may continue so long as: (10-26-94)

i. The use does not constitute unreasonable waste, as determined by the director, and (10-26-94)

ii. The use does not conflict with the public interest, as determined by the director. (10-26-94)

05. Incidental Stock Water. When stock water is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use may be diverted and used, from the same point of diversion and at the same place of use as the irrigation use, for purposes of maintaining a reasonable water supply for stock watering use during the period of use for irrigation described in the water right. (10-26-94)

06. Winter (Non-Irrigation Season) Stock Water. During the non-irrigation season, from October 16 through April 30 except as modified by Rule 040.04, the storage of water in Mackay Reservoir is superior to all rights from the Big Lost River with points of diversion downstream from Mackay Dam, subject to the minimum release required by Rule Subsection 040.07. (10-26-94)

a. Winter stock water can be called for and delivered pursuant to the list of water rights if it does not interfere with storage in Mackay Reservoir by requiring a release of water in excess of the minimum release required by Rule Subsection 040.07 or the actual release, whichever is greater. (10-26-94)

b. A right holder calling for delivery of stock water must have access to a diversion point and delivery system to convey the right to the place of use recorded in the list of water rights. If the headgate and delivery system are controlled by an entity other than the water user, the watermaster will only deliver the water with the concurrence of the owner of the headgate and delivery system and then only when such delivery does not constitute unreasonable waste as determined by the director. (10-26-94)

056. -- 059. (RESERVED).

060. ACCOUNTING FOR WATER DELIVERY (Rule 60).
Water diversions shall be accounted for continuously, throughout the year by the watermaster. (10-26-94)

061. -- 999. (RESERVED).

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