State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 7, 1999

Re: General Provisions for Basin 34 Meeting

Dear Interested Party:

In my letter to you dated March 22, 1999 in this matter, I advised you of a meeting to be conducted by IDWR in Arco on March 31, 1999 to discuss preliminary recommendations for irrigation seasons and general provisions. The meeting was conducted as planned, and participants felt that additional discussions on some of the disputed issues would be worthwhile.

For those that did not attend the March 31 meeting, we have enclosed for your review a copy of IDWR's presentation slides. Pursuant to a suggestion at the meeting we have also enclosed a copy of a brief filed previously by Dave Nelson that states his views on some of these provisions. At the March 31 meeting IDWR committed to review Mr. Nelson's proposals and any other proposals submitted to it by interested parties in response to IDWR's presentation.

I invite you to submit your comments or proposals to me at the address shown above by April 15, 1999. On April 16, IDWR will begin reviewing the submissions and determine whether to amend IDWR's proposed recommendations.

IDWR will distribute our amended proposals to a working meeting on **Thursday, April 22, 1999, in the Senior Citizen Center in Mackay at 301 Cedar.** The meeting will begin at **1:00 PM** and end at **5:00 PM,** and will recommence at **6:00 PM** at the same location for those who cannot be present at the afternoon session. I strongly encourage you to attend the earlier session if possible, as we will attempt to find solutions that address the concerns of the participants, while being acceptable to the Director.

If you cannot attend the meeting but are interested in continued involvement in this discussion, please contact either Peter Anderson at 327-7975 or me at 327-7929 with your comments. We look forward to discussing these issues with you at the meeting or by telephone.

Sincerely,

David R. Tuthill, Jr., P.E.
Chief, Adjudication Bureau

Enclosure: Meeting Notes (for those who did not attend), and Brief filed by Dave Nelson

4. The Back Channel, which separates from the main channel of the Big Lost River in the NE¼NE¼, Section 5, Township 8 North, Range 22 East, B.M., shall be administered as part of the natural channel of the Big Lost River. The flow in the back channel shall be administered as follows:

a. When the flow at the Howell gaging station is less than 1400 CFS, the flow in the Back Channel shall be kept as near as practicable to 150 CFS, but shall not exceed that amount.

b. When the flow of the Howell gaging station is at or exceeds 1400 CFS, the flow in the Back Channel shall be kept as near as practicable to 200 CFS. 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.

c. These provisions shall not be considered to enlarge the amount of water to which appropriators diverting from the Back Channel are entitled.

5. The following surface water rights from the following sources of water in Basin 34 shall be administered separately from all other surface water rights in Basin 34:

Water Right No.	Source

SEE ATTACHMENT A

6. The following Big Lost River water rights in Basin 34 shall be administered separately from all other non-storage, surface water rights in Basin 34 from the Big Lost River downstream of the Mackay Reservoir during the irrigation season before the time on the rising stage of the River when the flow at the Howell gage reaches 750 CFS, and after the time on the falling stage of the River when the flow recedes to 300 CFS:

Water Right No.	Source

SEE ATTACHMENT B

7. Except as provided in provisions 5 and 6, all water rights within Basin 34 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.

Meeting at Mackay 4-22-99 1:00pm.

Name	
Wiley Smith	Mackay,
Charles & Reenie Burgess	Mackay
Reva Walker	Arco, Idaho
Leon L Williams	Darlington
Lynn Rothwell	Darlington
Doug Rosenkrause	Mackay
Alvin Crawford	Darlington
Larry Quist	Arco
Art Quist	"
Herman Aikele	MOORE,
John Powers	Mackay
Tom Coates	Stayton, OR
Dan Nelson	Mackay Id.
Kenneth O Bell	Arco Ida
Harvey WALKER	ARCO Id.
Lawrence Babcock	Moore, Id.
Ray Boyack	Moore Id.
Shane Rosenkrans	Mackay
Daniel P. Mulick	Chilly Id
Steven Ashlett	Mackay Id

The director recommends that the following general provisions be included in the decree determining rights to water from Basin 34.

1. The following definitions apply to these provisions:

a. The Howell gage is located above Mackay Reservoir in the SE¼NE¼NW¼, Section 30, Township 8 North, Range 21 East, B.M.

b. The 2-B gage is located below Mackay Dam in the SW¼SW¼NE¼, Section 18, Township 7 North, Range 24 East, B.M.

c. Mackay Reservoir is "full" when the water surface elevation of the reservoir is at the spillway crest elevation of 6066.12 feet above mean sea level.

2. Mackay Dam and Reservoir shall be operated to maintain a minimum flow of 50 CFS at the 2-B gage. This 50 CFS shall be deemed unavailable for delivery to surface water rights below Mackay Dam outside the irrigation season.

3. Water rights that do not include storage as a purpose of use may not be stored. However, surface water rights below Mackay Dam and Reservoir have historically been rotated into storage, with the approval of the Director of the Idaho Department of Water Resources and the Big Lost River Irrigation District, when such practice improves the efficiency of water use as contemplated by the Irrigation District's plan of operation. Such historic practice may continue so long as any water stored under such a rotation, if not used in the same irrigation season in which it is stored, shall revert to storage water of the Big Lost River Irrigation District at the end of the irrigation season. Rotation into storage cannot occur prior to the need for irrigation water on the land, in any year; water rotated into storage may only be used on the land to which the water right being rotated is appurtenant; if the reservoir fills after rotation has begun in any year and 1905 priority natural flow waters right are able to receive water, all rotation credits are lost and all water in the reservoir at the time it fills reverts to storage water of the Big Lost River Irrigation District.