State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 22, 1999

Re: General Provisions for Basin 34 Meeting

Dear Interested Party:

On December 9, 1998, the SRBA District Court requested a supplemental report from IDWR on its season of use and general provision recommendations in Basin 34. IDWR intends to submit that report to the court, and mail pertinent copies to Basin 34 claimants, on May 7, 1999. Before it does so, we would like to share our preliminary recommendations with interested parties to determine whether some consensus can be reached within Basin 34 regarding these issues.

IDWR will be hosting a meeting to share and discuss its preliminary recommendations on **Wednesday, March 31, 1999, at 7:00 PM in the Butte Middle School Auditorium, 120 S. Water Street, Arco.** We will present and distribute the recommendations, and will invite discussion. For those interested in working to modify the recommendations, we will consider establishing one or more followup sessions.

The mailing list for this letter is enclosed. In addition, we are publicizing this issue in the local media. Attendance by any interested party is welcomed.

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: Mailing List

Meeting
Regarding Season of Use and
Conjunctive Management
Recommendations in Basin 34

Arco, Idaho
March 31, 1999

Agenda

- **Welcome and Introductions**
- **Background Information on Season of Use**
- **Proposal for Season of Use Recommendations**
- **Background on Conjunctive Management**
- **Background Information on B.W. Issue 5B**
- **IDWR's Proposals for Basin 34**
- **General Discussion**
- **Next Steps**

IDWR STAFF

- Dave Tuthill, Adjudication Bureau Chief
- Carter Fristchle, Water Rights Supervisor
- Ernie Carlsen, Eastern Region Supervisor
- Peter Anderson, Deputy Attorney General
- Susan Hamlin, Deputy Attorney General

Conjunctive Management and Season of Use in the Test Basins

- On December 9, 1998, the SRBA District Court requested supplemental reports for the Test Basins regarding conjunctive management and season of use.
- The order requested that the reports be filed within six months -- mailout date is May 7, 1999.
- The Court ordered approximately 30 days for objections and 30 days for responses.

Background on Season of Use

- Initial Director's Report for Basin 34.
  - For surface water rights IDWR generally recommended the U.C. Decree season of 5/1 through 10/15 with a general provision of 4/20 through 10/31 in the water master's discretion.
  - For ground water IDWR recommended a season of 4/15 through 10/31.
  - General provision for early and late season irrigation.

Background on Season of Use

- District Court Alternative
  - Decreed "Irrigation Season"
  - No general provisions
- Idaho Supreme Court Decision
  - Must have beginning and end dates
  - Remanded general provision to District Court
  - Supreme Court support of general provision regarding early and late irrigation questionable in light of its rejection of excess water provision

Basin 34 Season of Use Proposal

- Has been managed as a Water District.
- Water delivered pursuant to the U.C. Decree or Licenses.
- This is the historic practice in the region.
- Only 9 objections were filed to season of use under the IDWR's original director's reports.

Basin 34 Season of Use Proposal

- Licensed rights: recommend the licensed season of use.
  - Generally⇒ 4/1 or 4/15 through 10/31
  - Early/late season remark for those ground water rights with seasons narrower than 4/1 to 10/31
- Decreed and Beneficial Use surface water rights, generally:
  - Recommend the U.C. decree season of use⇒ May 1 through October 15.
  - Early and late season remark⇒ 4/20 through 10/31 if reasonably necessary.

Basin 34 Season of Use Proposal

- Beneficial use ground water rights:
  - 4/1 to 10/31

Background on Conjunctive Management

- "Conjunctive"--joined together.
- Conjunctive management in the water right context recognizes the interconnection between sources.
- It is generally used in the context of managing interconnected ground and surface water sources.

Background on Conjunctive Management

- Conjunctive management in Basin 34 involves Basin Wide issues 5 and 5B
- Thus, IDWR will be making Amended Director's Reports on all related general provisions

Basin Wide Issue 5--Basin 34 Provision

- IDWR's Original Recommendation (1992 & 1995):

  Some ground water rights in the list of water rights are described as being administered separate from the Big Lost River and its tributaries. All other ground water rights not so described will be administered as part of the Big Lost River and tributaries.

SRBA District Court (1996)

- 1st: The general provisions are invalid because they do not apply to all rights.
- 2nd: The general provisions are not necessary because of the existence of IDWR rules.
- 3rd: The court has already determined that all water in the Snake River Basin is interconnected unless proven otherwise by a preponderance of the evidence.

Idaho Supreme Court (1998)

- 1st: General provisions need not apply to every water right.
- 2nd: Agreed that most, if not all, water in the Snake River system is interconnected.

Idaho Supreme Court (1998)

- 3rd: IDWR's conjunctive management rules do not necessarily overlap the SRBA proceedings.

Remanded to the SRBA Court to decide whether inclusion of general provisions on conjunctive management of the interconnected waters is necessary for definition or efficient administration of the decreed water rights.

Basin-Wide Issue 5B Provisions

- Provision 2.a.--Division of the River at Mackay Reservoir.
- Provision 2.b.--The streams administered as separate from the surface waters of the Big Lost River: Rock Springs Creek [and 14 other named creeks].
- Provision 2.c.--Treatment of the Back Channel

Basin-Wide Issue 5B Provisions

- Provision 4.a.--50 cfs minimum stream flow below Mackay Reservoir.
- Provision 4.b.--Rotation of water rights into the Mackay Reservoir for credit.

Basin-Wide Issue 5B

- The SRBA District Court struck these provisions.
- The Idaho Supreme Court reversed and remanded these provisions to determine whether they are necessary the efficient administration or definition of water rights.

IDWR'S BASIN 34 PROPOSALS

- 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.

IDWR'S BASIN 34 PROPOSALS

- 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.

IDWR'S BASIN 34 PROPOSALS

- 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.

IDWR'S BASIN 34 PROPOSALS

- 3. Cont.
  - 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 water rights 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.

IDWR'S BASIN 34 PROPOSALS

- 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:

IDWR'S BASIN 34 PROPOSALS

- 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.

IDWR'S BASIN 34 PROPOSALS

- 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

IDWR'S BASIN 34 PROPOSALS

- 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

IDWR'S BASIN 34 PROPOSALS

- 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.

ATTACHMENT A

WATER SOURCE: BADY CREEK

34-00002
34-02508
34-13565

WATER SOURCE: CEDAR CREEK

34-00834
34-00835
34-00839
34-02303

WATER SOURCE: ELKHORN CREEK

34-00766

WATER SOURCE: GRANT CREEK

34-00769
34-02245

WATER SOURCE: LEHMAN CREEK

34-00472
34-04068

WATER SOURCE: LOWER CEDAR CREEK

34-00146
34-00153
34-00175
34-00543
34-00582
34-00585
34-00586
34-00808
34-00884
34-00885
34-00886
34-10434
34-10435

WATER SOURCE: PINTO CREEK

34-00341

WATER SOURCE: ROCK CREEK

34-00057
34-00058
34-00836
34-04039
34-10585

WATER SOURCE: ROCK SPRINGS CREEK

34-00352

WATER SOURCE: SAGE CREEK

34-00334
34-00335
34-00336

WATER SOURCE: UPPER CEDAR CREEK

34-10538
34-12399

WATER SOURCE: WILLOW CREEK

34-00057
34-00058

ATTACHMENT B

Big Lost River and Tributaries
Above Mackay Dam

WATER SOURCE:
BARTLETT CREEK

34-00056

WATER SOURCE: BIG LOST RIVER

34-00004
34-00024
34-00025
34-00026
34-00030
34-00048
34-00054
34-00055A
34-00055B
34-00084A
34-00084B
34-00097
34-00099
34-00103
34-00125A
34-00125B
34-00139
34-00145
34-00147B
34-00147C
34-00147D
34-00148B
34-00148C
34-00148D
34-00151
34-00152
34-00154
34-00155
34-00156
34-00158
34-00161A
34-00162A
34-00162B
34-00208A
34-00208B
34-00211
34-00220
34-00221
34-00222
34-00252
34-00269B
34-00269D
34-00290A
34-00290B
34-00291A
34-00291B
34-00292A
34-00292B
34-00293A
34-00293B
34-00294A
34-00294B
34-00297A
34-00297B
34-00298A
34-00324A
34-00324B
34-00325A
34-00338
34-00339
34-00340
34-00344
34-00346
34-00347
34-00348
34-00349
34-00351
34-00363
34-00364
34-00421
34-00454
34-00455
34-00456
34-00535
34-00561
34-00562
34-00563
34-00566
34-00567
34-00568
34-00573A
34-00573B
34-00583B
34-00583C
34-00584D
34-00584F
34-00626B
34-00627B
34-00628B
34-00629B
34-00630B
34-00693
34-00694
34-00699A
34-00699B
34-00699C
34-00700A
34-00700C
34-00701A
34-00701C
34-00702A
34-00702B
34-00702C
34-00734
34-00735
34-00742

34-00743
34-00755
34-00757
34-00758
34-00760
34-00764
34-00767
34-00768A
34-00768B
34-00770
34-00771
34-00772
34-00774
34-00775
34-00805
34-00859A
34-00860A
34-00867
34-00868
34-10164
34-10165
34-10166
34-10227
34-10228
34-10229
34-10250
34-10282
34-10557
34-10558
34-10563
34-10567
34-10568
34-10587
34-10619
34-10688
34-10920
34-13566

WATER SOURCE: BIG LOST RIVER, EAST FORK

34-00625
34-00662

WATER SOURCE: BIG LOST RIVER, NORTH FORK

34-00053A
34-00053B
34-00053C
34-00053D
34-00053E
34-00053G

WATER SOURCE: BIG LOST RIVER AND PARSONS CREEK

34-00142
34-00564
34-00565
34-00611B
34-00612B
34-00613B
34-00626A
34-00627A
34-00628A
34-00629A
34-00630A
34-00773
34-10553

WATER SOURCE: BIG LOST RIVER, PARSONS CREEK AND POLE STACKYARD CREEK

34-00812
34-00813
34-00815
34-00816
34-00867

WATER SOURCE: BOONE CREEK AND FOX CREEK

34-00529

WATER SOURCE: BRADSHAW SPRINGS

34-00128A
34-10620

WATER SOURCE: DEER CREEK

34-00624

WATER SOURCE: GARDEN CREEK

34-07010

WATER SOURCE: HAMILTON SPRINGS

34-00398
34-00399
34-07034

WATER SOURCE: HOWELL SPRING

34-00337

WATER SOURCE: LONE CEDAR CREEK

34-02144

WATER SOURCE: NAVARRE CREEK

34-00081
34-00820
34-00821

WATER SOURCE: NEWTON CREEK

34-07005

WATER SOURCE:
PARSONS CREEK

34-00443
34-00444
34-00445
34-00611A
34-00612A
34-00613A
34-00801
34-00802

WATER SOURCE:
PARSONS CREEK AND POLE STACKYARD CREEK

34-10801

WATER SOURCE:
POISON SPRING

34-07124

WATER SOURCE:
RIDER CREEK

34-04001

WATER SOURCE:
SPRING

34-00337
34-04019
34-04137
34-07124
34-10168
34-10251

WATER SOURCE:
SPRINGS

34-10635

WATER SOURCE:
THOUSAND SPRINGS CREEK

34-04127
34-10167

WATER SOURCE:
UNNAMED STREAM

34-04005A
34-04005B

WATER SOURCE:
WARM SPRINGS CREEK

34-00123A
34-00123B
34-00124A
34-00124B
34-00236
34-00237
34-00251
34-00353
34-00420
34-00457
34-00458
34-00467
34-00468
34-00469
34-00470A
34-00471
34-00483A
34-00483B
34-00527
34-00528
34-00703A
34-00703B
34-00703C
34-00704A
34-00704B
34-00704C
34-00803
34-00861A
34-00861B
34-00869
34-00870
34-00871
34-00963
34-10919
34-13564

General Provision Meeting Arco 5/31/99

Name	address
Y. Harvey Walker	PO 200 Arco
Mitchell Sorensen	3871 W 2500 N MOORE
Joel Aikele	R 91 Box 630 Moore
Larry Quist	Rt. 1 Box 203 Arco 83213
Ron Schnabel	P.O. Box 205 Mackay ID 83251
Doug Bosenkrance	R.T. Box 24 - Mackay ID 83251
Dave Nelson	5688 Chilly Rd Mackay ID.
Don Cammack	Box 903, Arco, ID
Dick & Lorraine Kerruish	P.O. Box 461 Moore 83255

General Provision Meeting Arco 3/31/99

Name	Adress
Reva W. Walker	P.O. Box 32 Arco Ida 83213
Charles Burgess }	Rt 1 Box 28 Mackay ID 83251
Reenie Burgess }	
Larman Anderson	527-3329
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