



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

December 17, 2007

Special Master Brigitte Bilyeu
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Via Facsimile to 736-3078

RE: Subcase Nos. 27-10028 & 27-12013 (Gardner)

Dear Special Master Bilyeu:

Pursuant to the Court's October 12, 2007 Order Granting Motion to Vacate Trial, Setting Deadline & Hearing, the Idaho Department of Water Resources ("IDWR") hereby submits the following update on the status of the MIKE Basin model.

The MIKE Basin model is a surface water budget model for major tributaries in the Blackfoot River Basin. It is a mathematical representation of the river basin designed to simulate operations of the reservoir, rainfall-runoff contributions upstream of the Blackfoot Reservoir, and the allocation of water downstream of the reservoir. Construction of the framework for the model concluded in November 2007 after months of refining with the help of, among others, the Tribe, state and federal agencies. Currently, the model provides only a rough estimation of the system primarily because of the unavailability of daily diversion data coupled with a lack of data for tributary flows. Calibrating the model is the next step, and calibrations are underway. To date, HMM, IDWR and USGS flow data have been incorporated. Stream flow data from the Tribe has been requested but is still outstanding. Ground water is not included in the current version of the model. Despite the data gaps, the model is calibrated downstream of the Blackfoot Reservoir and offers a skeletal surface water budget model for the Blackfoot River and eleven tributaries upstream from the Blackfoot Reservoir.

To be clear, the MIKE Basin model was not created to resolve the Tribe's volumetric objections. IDWR understands, however, that the Tribe and the United States' volumetric objections relate to the Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin issued by the SRBA District Court on August 2, 1995 ("Partial Final Consent Decree"). The Partial Final Consent Decree provides that the state created rights:

[A]re estimated to divert not more than 45,000 AFY of water from the Blackfoot River. In the event this estimate of the amount of existing diversions under the state created water rights is exceeded as a result of the Decree in the SRBA, the parties shall negotiate an equitable adjustment to the Tribal water rights to account for this change.

Partial Final Consent Decree, at 31.

IDWR believes the MIKE Basin model can help determine whether State-based water rights are diverting more than 45,000 AFY of water from the Blackfoot River. IDWR has therefore offered to work with the parties to explore the issue further. IDWR has not received a definitive response from the parties as to whether they want to so use the MIKE Basin model.

If you should have any questions or comments, please do not hesitate to contact me at 287-4811.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Baxter', with a long horizontal stroke extending to the right.

Garrick L. Baxter
Deputy Attorney General, IDWR

cc: Leon & Bonnie Gardner
David J. Barber
Jeanette Wolfley
Peter C. Monson