

and extent of water rights. Conjunctive Administration is already defined by law.

3. Paragraph 4 entitled "Administration of Surface Sources Within Basin 34" is another provision that is devoted solely to the administration of water rights, not to the identity, nature, or extent of the water right. Paragraph 4 also provides that all water users of Water District 34 pay for a measuring device and control works on the Back Channel. The Utah Construction Decree provides that those who have water rights through the Back Channel pay for the necessary device and control works. It appears this language is an update of the Utah Construction Decree which changes some of the general provisions of the Utah Construction Decree. Further, there is no justification for the exclusion of sub-basins.

4. Paragraph 5 entitled "Administration of Ground Water Within Basin 34" is also limited to administration of water rights. Ground water appropriating should be at a "pumping level" of average historic pumping levels.

5. Paragraph 6 entitled "Conjunctive Administration of Ground and Surface Water Rights Within Basin 34" is also related to administration and should not be a part of the Court's Decree. If administration in this manner protects senior water rights, it is only doing what the current law requires; and thus is unnecessary.

Additionally, supplemental wells should be administered in a different manner than primary source wells.

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6. Paragraph 7 entitled "Administration of Basin 34 and Snake River Basin" refers again to administration, and as such, is not a necessary part of a Decree.

7. Paragraph 8(b) is objected to because rotation credit should be limited to fourteen (14) days' accumulation and if not used, it should be distributed to the next water right according to priority. The rotation credit must not be available to any land outside the District. In any event, the rotation practice should be determined by the District, not the Director.

8. Paragraph 8(a) is objected to because this authority should remain with the Big Lost River Irrigation District.

9. Paragraph 14 entitled "Irrigation Use" is objected to because there is no legal authority providing the Director with the authority to do what is stated in this paragraph.

10. Paragraph 17 is objected to because there is no legal authority for this limitation. The water user must be able to direct his historic rate of diversion using supplementary sources in order to allow for certain irrigation practices, such as flood irrigation.

11. Paragraph 18 is objected to because conveyances losses are so variable and dependent upon many different factors. A general determination of what is a reasonable conveyance loss cannot be made.

Paragraph 18 is also objected to because the Director does not have authority to limit diversion rights for conveyance losses if it is a part of an existing right.

12. The General Provisions are further objected to because there is no provision taking into consideration maintaining stream flows for environmental purposes in order to maintain wetlands and provide for birds and wildlife.

QUESTIONS OF LAW

1. Whether the General Provisions which are primarily administrative in nature should be included in the Decree adjudicating water rights in Basin 34?

2. Whether the General Provisions are elements in a Decree determining rights to water in Basin 34?

3. Whether Paragraph 3 entitled "Conjunctive Administration" is a corrective statement of the definition of conjunctive administration?

4. Whether Paragraph 4 entitled "Administration of Surface Sources Within Basin 34" is necessary in describing a water right?

5. Whether Paragraph 4 of the General Provisions can be used to supersede the General Provisions of the Utah Construction Decree?

6. Whether it is necessary to define rotation practices of the Irrigation District in a Decree determining water rights in Basin 34?

7. Whether Paragraph 9 entitled "Measuring Devices and Control Works" is necessary to be included in the Decree?

8. Whether Paragraph 10 entitled "Firefighting Purposes" is a necessary or required element in the Decree?

9. Whether Paragraph 12 entitled "Domestic Use" is a necessary or required element in the Decree?

10. Whether Paragraph 13 entitled "Stock Water Use" is a necessary or required element in the Decree?

11. Whether the Director or IDWR has the authority to make the determinations set forth in Paragraph 14 entitled "Irrigation Use?"

12. Whether conveyance loss is a necessary element of a water right?

13. Whether certain tributaries should be excluded from administration in conjunction with the Big Lost River?

QUESTIONS OF FACT

1. Whether any water rights, including ground water rights, can be administered separately from the Big Lost River and its tributaries?

2. Whether the water rights in Basin 34 can and should be administered as part of the Snake River Plan Aquifer?

3. Whether a minimum flow of 50cfs at the 2-B Gauge should be required?

4. Whether the maximum annual volume of consumptive use required for irrigation of lands in Basin 34 is 2.5 afy per acre?

5. Whether the combined use or more than one water right for irrigation purposes is limited to .02 cfs per acre for ground water rights or a total diversion rate of .0286 cfs per acre for surface water rights?

6. Is there appropriate conveyance loss for Basin 34?

7. What is the appropriate conveyance loss for Basin
34?

8. What is the appropriate "pumping level?"

9. Whether the appropriate "pumping level" is the
historic average pumping level?

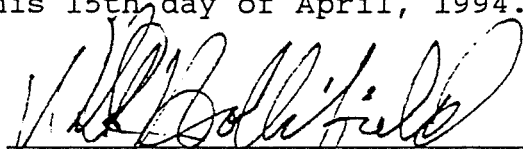
THE MOTION TO CONSOLIDATE WILL AVOID UNNECESSARY
COST, DELAYS, AND BE CONDUCTIVE TO JUDICIAL ECONOMY

The consolidation of the subcases for the purpose of the
determination of the questions of law and the questions of fact as
set forth above can resolve these issues in all of the subcases
involved. The remaining legal and factual issues to be tried in
each subcase would be specific to each subcase.

AFFECT OF JOINT MOTION ON TRIAL PROCEDURES

If consolidated as to the legal and factual issues, this
portion could proceed on its own schedule. Primarily, it consists
of legal issues which could be handled as a Basin-Wide Issue, or
with a briefing schedule. It would not appear this would affect
the other dates on the case-specific issues.

RESPECTFULLY SUBMITTED This 15th day of April, 1994.


WILLIAM R. HOLLIFIELD, Attorney
for Big Lost River Water Users
Association

CERTIFICATE OF MAILING

WILLIAM R. HOLLIFIELD hereby certifies that on the 15th day of April, 1994, he served the foregoing document by placing true and correct copies thereof in the United States Mail, postage prepaid, addressed as follows:

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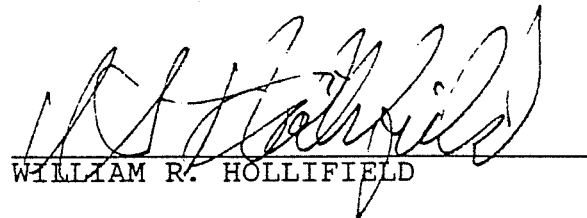
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ATTACHMENT A

✓ 34-00017D	✓ 34-02358E	✓ 34-07154
✓ 34-00060	✓ 34-02389	✓ 34-07179
✓ 34-00259F	✓ 34-02412A	✓ 34-10043
✓ 34-00378	✓ 34-02417B	✓ 34-10454
✓ 34-00556	✓ 34-02428	✓ 34-10832
✓ 34-00647	✓ 34-02429B	✓ 34-12368
✓ 34-00738E	✓ 34-02491E	✓ 34-12381
✓ 34-00911	✓ 34-07059B	✓ 34-12432
✓ 34-02277	✓ 34-07075	✓ 34-02330A
✓ 34-00050B	✓ 34-07120	✓ 34-02358D
✓ 34-00168F	✓ 34-07122B	✓ 34-02373
✓ 34-00315	✓ 34-07176	✓ 34-02410
✓ 34-00384	✓ 34-07223	✓ 34-02417A
✓ 34-00559	✓ 34-10397	✓ 34-02426C
✓ 34-00654A	✓ 34-10484	✓ 34-02429A
✓ 34-00789	✓ 34-10939	✓ 34-02472A
✓ 34-00970	✓ 34-12377	✓ 34-02512
✓ 34-00052A	✓ 34-12431	✓ 34-07059D
✓ 34-00168G	✓ 34-02315	✓ 34-07079
✓ 34-00354	✓ 34-02358A	✓ 34-07121B
✓ 34-00508	✓ 34-02358F	✓ 34-07164
✓ 34-00646	✓ 34-02395	✓ 34-07201
✓ 34-00692D	✓ 34-02412C	✓ 34-10272
✓ 34-00796	✓ 34-02419A	✓ 34-10455
✓ 34-02272A	✓ 34-02491H	✓ 34-10896
✓ 34-02308A	✓ 34-07059C	✓ 34-12376
✓ 34-02309	✓ 34-07077	✓ 34-12417
✓ 34-2330B	✓ 34-07122A	✓ 34-12433