

Cefalo, James

From: Rob Harris <rharris@holdenlegal.com>
Sent: Monday, January 31, 2022 2:52 PM
To: TJ Budge; Cefalo, James; Wilson, Frank S
Cc: hank.povey@gmail.com; Ball, Gary; Esralew, Rachel; Jirak, Jeremy M; Wallis, Joanne V; Pilson, Stephen; Jeletic, Michael P
Subject: RE: Revised Draft Permit
Attachments: Draft Permit 13-8081.pdf

T.J. and James:

In the first revised draft of the condition that was circulated, it provides that the current water elevation in Oxford slough is 4742.5 feet (and that the proposal from USFWS is to raise it to 3 feet with the 6" boards:

4. To prevent injury to downstream water rights, the right holder shall adhere to the following plan of operations: The right holder may capture and store water in the reservoir authorized by this right up to a maximum elevation of 4745.5 feet above sea level. Each year, at the time irrigation rights are curtailed on the Bear River in the state of Idaho or when a call for water is made by the holder of a senior irrigation right on Deep Creek, but not earlier than April 20th, the right holder shall remove a 4-foot by 6-inch pressure board from the dike, allowing the reservoir to empty slowly to an elevation of 4745.0 feet above sea level. The removal of the top pressure board is based solely on the first day of curtailment of irrigation rights on the Bear River or a call for irrigation water on Deep Creek and is not contingent on zero flow in the emergency spillway channel. There may be years when the top pressure board is removed at the same time water is flowing through the emergency spillway channel on the dike. Once the reservoir reaches equilibrium at an elevation of 4745.0 feet above sea level, the natural channel below the reservoir dike will dry up and the reservoir will eventually become disconnected from Deep Creek, thereby reflecting the natural hydrologic conditions in mid- to late-summer. In any year that Twin Lakes Reservoir does not fill by May 1st, the right holder shall remove the top 4-foot by 6-inch pressure board from the dike on May 1st, unless it has already been removed. The right holder shall remove an additional, lower 4-foot by 6-inch pressure board from the dike once every two weeks after May 1st, until Twin Lakes Reservoir fills or until all pressure boards have been removed from the dike (water level elevation = 4742.5 feet). All pressure boards may be reinstalled at the dike at the end of the irrigation season (October 1).
5. The right holder shall install and maintain a staff gage at the diversion dam which can be used to determine the water surface elevation of the water stored behind the dam.

However, there is no reference to this 4742.5 feet in the revised Condition No. 5 in the second draft permit. It suggests that the lowest point is 4745.0 feet:

5. To prevent injury to downstream water rights during the irrigation season (4/20 – 9/30), the right holder shall adhere to the following plan of operations: The right holder may capture and store water in the reservoir authorized by this right up to a maximum elevation of 4745.5 feet above sea level. Each year, at the time irrigation rights are curtailed on the Bear River in the state of Idaho or when a call for water is made by the holder of a senior irrigation right on Deep Creek, but not earlier than April 20th, the right holder shall remove one or two 4-foot by 6-inch pressure boards from the dike, allowing the reservoir to empty slowly to an elevation of 4745.0 feet above sea level. The removal of the top pressure boards is based solely on the first day of curtailment of irrigation rights on the Bear River or a call for irrigation water on Deep Creek and is not contingent on zero flow past the diversion dam. There may be years when the top pressure boards are removed at the same time water is already flowing over the diversion dam. Once the reservoir reaches equilibrium at an elevation of 4745.0 feet above sea level, the natural channel below the reservoir dike will dry up and the reservoir will eventually become disconnected from Deep Creek, thereby reflecting the natural hydrologic conditions in mid- to late-summer.

Perhaps I have missed something concerning the current level in the Oxford Slough is 4745.0 feet. Could either of you explain the difference in these elevation values?

Thanks in advance.



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From: TJ Budge <tj@racineolson.com>

Sent: Tuesday, January 25, 2022 10:12 PM

To: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Wilson, Frank S <Frank.Wilson@sol.doi.gov>; Rob Harris <rharris@holdenlegal.com>

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One initial comment: I think we need to replace "may" with "shall" in the second sentence of conditions 4 and 5 in order to require the impoundment of an additional half foot of storage for mitigation purposes.

T.J. Budge

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From: Cefalo, James <James.Cefalo@idwr.idaho.gov>

Sent: Tuesday, January 25, 2022 3:13 PM

To: Wilson, Frank S <Frank.Wilson@sol.doi.gov>; TJ Budge <tj@racineolson.com>; Rob Harris <rharris@holdenlegal.com>

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Subject: Revised Draft Permit

Attached is a revised draft permit, incorporating the changes we discussed during the status conference last week. I moved the language about the non-irrigation season into a separate condition and shifted it ahead of the irrigation season condition. I incorporated much of the language proposed by Rob Harris but made some revisions. I also changed the irrigation season condition to refer to water flowing over the diversion dam rather than water flowing through the emergency spillway.

Please review the revised draft and respond to this email with any questions, comments, or edits. Let's set a deadline of February 11th for emailing comments or edits. Based on the feedback from the group, I will decide whether we need to pull together another status conference.

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WATER RESOURCES
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