

## MEMORANDUM

TO: Sean Vincent and Angie Grimm  
FROM: Nick Miller   
DATE: September 4, 2019  
RE: Request for IDWR Staff Memorandum – Boise River Operations

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I would like the Hydrology and Water Rights Sections to jointly prepare a staff memorandum regarding the origins, meaning, and use of Condition 907 as well as some associated discussion of related Condition 908.

The staff memorandum should discuss, 1) Review of the origins of the condition, and some discussion of the development of the last sentence of Condition 907, as that sentence does not appear in the earliest versions of the condition, 2) the basis for the dates and benchmark flows listed in 907, including how or whether they are related to the flood control operations identified in Condition 908, and 3) how Conditions 907 and 908 are implemented in the accounting program, both in previous years and as contemplated for this year's upgrade of the accounting program.

### Context of the Request

During a prehearing conference for contested application for permit 63-34614, Michael Orr, representing IDFG, asked that I request a staff memorandum to provide some context on the origins, meaning, and use of Condition 907. The contested application was filed by Micron Technology Inc for industrial and ground water recharge uses from the Boise River. The application was protested by the Boise Project Board of Control, the Idaho Department of Fish and Game (IDFG), the Idaho Foundation of Parks and Land, SUEZ Water Inc, and a group of 14 canal companies and irrigation districts. Because the Boise River is fully appropriated during much of the year, the settlement discussions have involved limiting delivery of water to those times the river is on flood control releases and possibly additional limitations to protect other interests. IDWR typically conditions new, unmitigated, appropriations of water from the Boise River with Condition 908 to limit diversion to those times the river is on flood control. However, IDWR also typically includes Condition 907 that further defines flow parameters that must be met before diversion of the new appropriation is authorized. The purpose and origin of the flow rates and date intervals is not well documented, and it is unclear how or whether this condition is implemented in the water rights accounting.

The two standard conditions are reproduced on the following page, but note that a number of variations do exist, many of which only refer to the 240 cfs limitation.

## **Standard Conditions 907 and 908**

**907** If measured or calculated Boise River flows at the point of diversion are less than 240 cfs during the period beginning June 16 and ending February 29, water shall not be diverted pursuant to this right. If measured or calculated Boise River flows at the point of diversion are less than 1,100 cfs during the period beginning March 1 and ending May 31, water shall not be diverted pursuant to this water right. Measured or calculated Boise River flows at the point of diversion shall be based on gauged Lucky Peak Dam discharge minus the gauged diversion of the New York Canal. If the benchmark stream maintenance flows of 240 cfs (from June 16 to February 29) and 1,100 cfs (From March 1 to May 31) subsequently change, then the diversion of Boise River flows under this right will be limited to provide for the new benchmark flows.

**908** The right holder shall exercise this right only when authorized by the District 63 watermaster when the Boise River is on flood release below Lucky Peak dam/outlet. Flood releases shall be determined based upon the Memorandum of Agreement between the Department of Army and the Department of Interior for Flood Control Operations of Boise River Reservoirs, dated November 20, 1953, contracts with Reclamation contract holders in the Boise River Reservoirs, the Water Control Manual for Boise River Reservoirs, dated April 1985, and any modifications adopted pursuant to the procedures required in these documents and federal laws. The right holder shall not seek, directly or indirectly, any change to the flood control operations of the 1985 Water Control Manual for Boise River reservoirs. This water right may not be used to divert water released from storage to augment lower Snake River flows during the migration of Snake River salmon as authorized under Idaho law, or for any purpose of use authorized under the water rights for Lucky Peak Reservoir.