

Form 202A 04/17

ID No. TP-34-26STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESRECEIVED
DEC 16 2019**APPLICATION FOR TEMPORARY APPROVAL OF WATER USE**
For a use not intended to become an established water right and not to exceed one (1) year in duration in accordance with Idaho Code § 42-202A. Department of Water Resources Eastern RegionName of applicant Water District 34 **DENIED** Phone (208) 588-3137Mailing address PO Box 53 City MackayState ID Zip 83251 Email waterdistrict34@atcnet.net1. Source of water Big Lost River tributary to Sinks2. Location of point(s) of diversion. If more than two, attach a Point of Diversion/Place of Use Supplement. ☐

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
06N	25E	14			NW	SE	Custer	Big Lost River	Blaine/3in1 Heading
06N	25E				NW	NE	Custer	Big Lost River	Beck/McGowan

3. Location of place of use. If more rows are needed, attach a Point of Diversion/Place of Use Supplement. ☐

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
See	Map																		

4. Proposed use of water:

- a. ☐ Prevention of flood damage ☒ Ground water recharge ☐ Ground water or surface water remediation
☐ Other (Limited to a diverted volume of 5 acre-feet.) Describe: _____

b. Attach a detailed description of how the proposal will accomplish the intended objective, such as prevention of flood damage.

5. Amount of water. Complete all three:

a. Maximum rate of diversion: 40 cfs; or _____ gpm.b. Maximum daily volume: 79.2 AF; or _____ gallons.c. Maximum volume over the duration of the request: 9,500 AF; or _____ gallons.6. Duration of diversion: from December 1, 2019 (month-day) to April 1, 2020 (month-day).7. Describe proposed diverting works: Lockable headgates and measuring devices.8. a. Who owns the property at the requested point of diversion? WD 34 and/or Big Lost River Irrigation Districtb. Who owns the facilities that will convey water to the place of use? WD 34 and/or Big Lost River Irrigation Districtc. Who owns the land to be irrigated or place of use? WD 34 and/or Big Lost Irrigation Districtd. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. Written agreement with BLRID to access canals and recharge sites.

9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Signature of Applicant [Signature]Title, if any Water MasterDate 12-16-19

Received by _____

Date _____

Time _____

\$50.00 fee received by CH# E045380Date 10/9/19

Watermaster comments received? _____

Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources ("Department") has examined this application for temporary approval to use water under the provisions of Idaho Code § 42-202A and has determined that:

- ☒ A. The application for temporary approval should be denied because of public interest concerns about reducing water flowing in river channel near Arco and because of low snow pack and limited water supplies in 2020
- ☐ B. The application for temporary approval should be approved, since
1. The temporary approval can be properly administered.
 2. Other water sources are not readily available.
 3. The approval is in the public interest.
 4. The approval will not injure known public values associated with the water source or any known water rights.
 5. If the temporary approval is within a water district, the Department has sought and considered the recommendations of the watermaster.

This application is therefore hereby:

☒ A. DENIED

☐ B. APPROVED, subject to the following conditions:

1. Diversion and use of water under this approval is subject to all valid existing water rights.
2. The applicant assumes all risk of the use of the water under this approval.
3. This approval authorizes a maximum diversion volume of _____ AF and a maximum diversion rate of _____ cfs.
4. This approval does not grant a right-of-way across the land of another.
5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
7. This approval does not create a continuing right to use water.
8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
10. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.
11. Other: _____
12. This approval expires on _____.

Signed this 2nd day of March, 2020.


For the Department



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 2, 2020

Water District 34
PO Box 53
Mackay, ID 83251

RE: Application for Temporary Approval of Water Use TP-34-26

Dear Applicant:

This letter is meant to notify you that Application for Temporary Approval of Water Use TP-34-26 has been denied. Water District 34 currently holds two water right permits which, in combination, authorize up to 800 cfs of ground water recharge at various locations in Basin 34. Both of these existing permits were, prior to their approval, contested applications before the Department. The contested cases were ultimately resolved without an administrative hearing. Both permits refer to a Settlement Agreement and Stipulation dated April 21, 1997 and a Plan of Operation, which governs recharge activities in Basin 34. The ground water recharge use proposed in Application TP-34-26 is not consistent with the current Plan of Operation for Basin 34. Because the proposed recharge use was a departure from the historical recharge activities occurring under the two existing permits, the Department felt it was necessary to provide notice of Application TP-34-26 to the parties to the original contested cases.

On January 17, 2020, the Department sent notice of Application TP-34-26 to thirteen entities or individuals. The notice advised the recipients to provide comments to the Department on or before February 18, 2020 if they were opposed to the recharge use proposed in Application TP-34-26. Of the thirteen entities or individuals receiving the notice, only four provided comments to the Department. In addition, the Department received comments from other individuals who were not involved in the original contested cases for the two existing permits. A summary of the comments is enclosed.

Idaho Code § 42-202A governs the application for and review of temporary approvals and states that the Department may deny a temporary approval if the Department determines that the proposed use would "injure public values associated with the water source or any other water right." The comments provided to the Department show that there are public interest concerns related to the proposed recharge use. In addition, as of today, the snowpack for Basin 34 is only 62 percent of normal. Therefore, the flow in the Big Lost River will likely be below average this year, meaning the non-irrigation season might be the only time there is flow in the Big Lost River channel between Moore and Arco.

Ideally, Water District 34 would amend its Plan of Operation to allow for the proposed recharge use under its existing recharge rights, while still addressing the concerns of people in the lower valley. Amending the Plan of Operation may take some coordination with the parties to the previous contested cases, particularly those who provided comments about Application TP-34-26. The Department encourages Water District 34 to contact the individuals and entities providing comments and discuss a possible amendment of the Plan of Operation. Please contact me if you would like a representative from the Department to participate in those discussions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Cefalo', written in a cursive style.

James Cefalo
(208) 525-7161

Encl: Summary of Comments

Cc: Butte County Commissioners
James White, IDFG
Joel Andersen, BLRWUA
Harvey Walker
Matea McCray / Karon Huggins
Judy Stedtfeld

Application for Temporary Water Use TP-34-26
Water District 34
Summary of Comments Received prior to February 18, 2020

Phone Comments

Bill Walker for Walker Family Trust

Agrees that less water should be sent to the desert. Is mainly concerned that the Spring Creek channel be rehabilitated so it can be used for ground water recharge. Explained that Reva Walker fought for years, unsuccessfully, to get water back into the Spring Creek channel. Is not opposed to Application TP-34-26, but wants the WD34 Recharge Committee to initiate a project to make the Spring Creek channel an active waterway again. Walker would like to meet with the WD34 Recharge Committee to discuss future projects.

Jim Childers (Not original protestant)

208-589-4110

Is opposed to taking any water out of the river for recharge.

Howard Wood (Not original protestant)

208-821-8583

Owns two springs which are totally dependent on flows in the Big Lost River near Arco. Property is in NWSW of Section 6. Neighbor to Harvey Walker. Opposed to any water diverted from the Big Lost River for recharge.

Barry Dunn (Not original protestant)

208-351-5065

Wants a minimum stream flow in the Big Lost River below Arco. Believes more emphasis should be put on the aesthetic values of flow in the river. Not opposed to recharge as long as the river is kept alive.

Tana Beverly (Not original protestant)

208-716-4327

Concerned about flow in the Big Lost River near Arco. Many people in the Arco area have been forced to re-drill domestic wells. Opposed to any more water being taken out of the river for recharge by the upper valley.

Judy Stedtfeld and John Stedtfeld (Not original protestants)

208-681-4824

Opposed to recharge. Had to re-drill domestic well because of declining aquifer levels. Believes the aquifer problems are directly tied to no water in the river near Arco. Opposed to any more water being taken out of the river for recharge.

Written Comments

Attached



BUTTE COUNTY COMMISSIONERS

COURTHOUSE
P.O. BOX 737
205 W. Grand Avenue
ARCO, IDAHO 83213
(208) 527-3021
FAX (208) 527-3295

BRIAN HARRELL
ROSE BEVERLY
WES COLLINS

Butte County Board of Commissioners
P.O. Box 737
Arco, ID 83213
208-527-3021
butteclerk@atcnet.net
Thursday, February 13, 2020

State of Idaho Department of Water Resources
Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

RE: Notice of Application for Temporary Approval of Water Use TP-34-26
in the Name of Water District #34

Dear State of Idaho Department of Water Resources:

The Butte County Board of Commissioners are issuing this letter of concern as they feel that it imperative that the Big Lost River stay alive and continue to run to the Huggins Bridge. We feel that this is currently being accomplished.

Sincerely,

Handwritten signature of Brian Harrell in cursive.

Brian Harrell, Chairman Butte County Board of Commissioners

Handwritten signature of Wes Collins in cursive.

Wes Collins, Butte County Commissioner



IDAHO DEPARTMENT OF FISH AND GAME
SOUTHEAST REGION
1345 Barton Road
Pocatello, Idaho 83204

RECEIVED
FEB 18 2020
Department of Water Resources
Pocatello, ID

Brad Little / Governor
Ed Schriever / Director

February 13, 2020

James Cefalo
Regional Manager
Idaho Department of Water Resources
900 N. Skyline Drive; Suite A
Idaho Falls, ID 83402

RE: Notice of Application for Temporary Approval of Water Use TP-34-26 in the Name of Water District 34

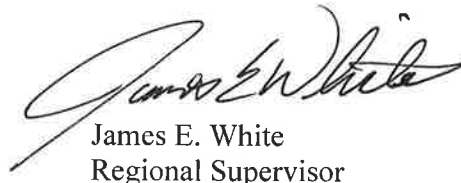
Dear Mr. Cefalo:

The Idaho Department of Fish and Game (IDFG) has reviewed the Application for Temporary Approval of Water Use TP-34-26 as well as the Recharge Plan of Operation and Settlement Agreement with Stipulation. The Applicant has requested that the 60CFS at the Arco gauge be treated as a "futile call diversion" during this temporary approval. Additionally, the Applicant has stated that they would be open to a condition requiring enough flow be left in the river to "maintain a living river channel".

IDFG would like to request a meeting with the Applicant and IDWR to better understand the proposal. Based on the information provided, it is difficult to fully understand and anticipate the biological realities associated with treating water rights 34-7571 and 34-7573 as futile call diversions throughout the entire system. IDFG would like to better understand the project to provide IDWR and the Applicant with the relevant information about potential impacts to fish and wildlife in and around the Big Lost River.

IDFG appreciates the opportunity to review and comments on this Application for Temporary Approval of Water Use. Please contact Jacob Gray (jacob.gray@idfg.idaho.gov) to set up a meeting or to request additional information.

Sincerely,



James E. White
Regional Supervisor

jmg/jew/jmh

Keeping Idaho's Wildlife Heritage

RECEIVED

FEB 18 2020

Department of Water Resources
Eastern Region

Idaho Department of Water Resources

Notice of Application for Temporary Approval of Water Use TP-34-26 In the Name of Water District 34

To: James Cefalo Regional Manager

February 13, 2020

From: Joel Andersen Big Lost River Water Users Association

Subject: Comment Letter for Winter Recharge

Big Lost River Water Users Association is apposed to Winter Recharge on the Big Lost unless there is River flows to the Huggins/Braswell bridge. In recent years higher than normal snowpack has helped in recharging the lower Valley. However, even with higher snow pack and the River flowing during certain times and months, not all water rights have been restored. Several Spring rights with earlier priority than ground water diversions are still suffering for a lack of flows in the River above and below Arco. Big Lost River Recharge Settlement Agreement and Stipulation states that the purpose is to "hydrologically and broadly benefiting all residents and interests in the Valley". A study was conducted last year by INL and The Department of Water Resources. We are unaware of the results and findings of this study. Until that study or additional studies support sinking water in Custer County will benefit the situation above and below Arco we oppose this Winter Recharge.

Sincerely,

Joel Andersen, Big Lost River Water Users Association



Harvey Walker
2338 N. 2930 W.
Arco, Id. 83213
208-520-7880

State of Idaho Department of Water Resources
Eastern Region
900 N. Skyline Dr. Suite A
Idaho Falls, Idaho 83402-1718

FAX 525 2147

Attn. James Cefalo

Re: Application for Temporary Approval of Water Use
TP-34-26 in the Name of Water District #34

Dear State of Idaho Department of Water Resources

The Big Lost River should stay alive and continue to
run to the Huggins Bridge, in the winter months. The
plan of operation needs to be changed.

Sincerely,


Harvey Walker

Idaho Dept of Water Resources
900 N. Skyline Drive Suite A
Idaho Falls, Idaho 83402

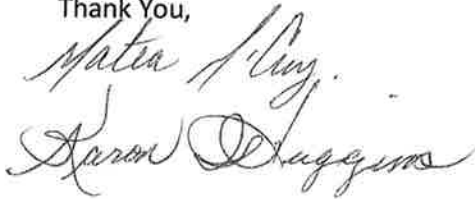
RECEIVED
FEB 11 2020
Department of Water Resources
Eastern Region

Date: February 9, 2020

Subject: Objection to Application TP-34-26 From Matea McCray and Karon Huggins

The 60 CFS of water passing the Arco Gauge in the BLR recharges the groundwater (per the referenced settlement agreement) for all of us on the lower end of the river, including the entire city of Arco. We therefore oppose IDWR granting this application.

Thank You,

Handwritten signatures of Matea McCray and Karon Huggins in cursive script.

Matea McCray
3470 Cobblestone Ln.
Idaho Falls, Idaho 83404
208-360-2826

Karon Huggins
2132 N 2900 W
Arco, Idaho 83213

Cefalo, James

From: muchcorner@atcnet.net
Sent: Tuesday, February 18, 2020 4:26 PM
To: Cefalo, James
Subject: TP-34-26

Mr. Cefalo;

In regards to the above referenced application I would like to voice my opposition to the application. I live approximately 1000 feet from the Big Lost River and have had to deepen my well twice, with a new well having to be placed also. I do not approve of any diversion of water out of the river. It has cost this valley dearly.

Thank you for your time

Judy Stedtfeld
P.O. Box 175
Arco, ID. 83213



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 17, 2020

**Notice of Application for Temporary Approval of Water Use
TP-34-26 in the Name of Water District 34**

On December 16, 2019, Water District 34 filed Application for Temporary Approval of Water Use TP-34-26, proposing to divert a total of 40 cfs from the Big Lost River at two locations in Section 14, T06N, R25E for ground water recharge. A copy of Application TP-34-26 is enclosed with this notice.

Water District 34 currently holds Permits 34-7571 and 34-7573 which, in combination, authorize the diversion of 800 cfs from the Big Lost River and some of its tributaries for ground water recharge at various locations throughout the Big Lost River basin. The Department issued Permits 34-7571 and 34-7573 in 1998 after protests against the underlying applications were withdrawn. Some of the protests were withdrawn without condition. Others were withdrawn through an Agreement (dated June 5, 1995). Still others were withdrawn through a Settlement Agreement and Stipulation (dated April 21, 1997). A copy of the 1995 Agreement and the 1997 Settlement Agreement and Stipulation are enclosed with this notice. The entire files for Permits 34-7571 and 34-7573 are available online at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>

Both of the permits include the following condition of approval:

Approval of this right is subject to the Plan of Operation and Agreement and Stipulation dated April 21, 1997.

Water District 34 adopted a Recharge Plan of Operation in April 1997 which contains the following provision:

For the Big Lost River itself downstream from Mackay Dam, diversion for recharge downstream from Mackay Dam will not occur unless the flow at the Arco gage is 60 cfs or more measured as a three consecutive day average. The 60 cfs at the Arco gage is for purposes of this Plan of Operation only and is not and cannot be construed as a minimum flow or minimum flow water right under any theory of law.

Application for Temporary Approval of Water Use TP-34-26 does not propose to be subject to the 1997 Recharge Plan of Operation or its requirement that diversion for ground water recharge not occur unless 60 cfs of water is flowing in the Big Lost River at the Arco gage.

Idaho Code § 42-202A states that the Department is not required to publish notice of an application for temporary approval of water use, but may provide notice of such an application as the Department deems appropriate. The Department has determined that all of the protestants to Applications 34-7571 and 34-7573 should be notified of the current recharge proposal. You are receiving this notice because you were a protestant to Application 34-7571 or 34-7573.

Idaho Code § 42-202A governs the review of applications for temporary approval. It states that a temporary approval of water use may be approved if the Department determines that "other sources of water are not available," that the approval is in the public interest, and that the approval "will not injure public values associated with the water source or any other water right." Idaho Code § 42-202A does not establish a process to protest an application for temporary approval of water use. Persons wishing to raise objections or concerns related to the review criteria may do so in the form of a comment letter. If you have concerns about the proposed temporary water use, please deliver a comment letter to the Department on or before February 18, 2020. If you do not comment on the proposed temporary water use, the Department will assume that you have no objections to or concerns with the proposed temporary approval of water use. Please feel free to contact me if you have any questions.

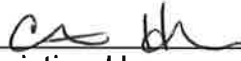
Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cefalo', written in a cursive style.

James Cefalo
Regional Manager
208-525-7161

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of January 2020, I mailed a true and correct copy of the foregoing NOTICE OF APPLICATION FOR TEMPORARY APPROVAL OF WATER USE, with the United States Postal Service, postage prepaid and properly addressed to the person(s) listed below:


Christina Henman
Administrative Assistant

Water District 34
PO Box 53
Mackay, ID 83251

Idaho Department of Fish & Game
PO Box 25
Boise, ID 83720

Charles & Karon Huggins
2132 N 2900 W
Arco, ID 83213

Harry Crawford
3384 W 3800 N
Moore, ID 83255

Idaho Rivers United
c/o Kevin Lewis
PO Box 633
Boise, ID 83701

Melvin Marx Hintze
c/o Darla Ann Hintze
4372 W Houston Road
Mackay, ID 83251

Big Lost River Water Users Association
c/o Joel Andersen
2791 N 3375 W
Moore, ID 83255

Dave Nelson
Nelson Mackay Ranch LLC
PO Box 360
Mackay, ID 83251

J. Lester Braswell
Dennis & Trudy Braswell
2131 N 2900 W
Arco, ID 83213-8724

U.S. Department of Energy
1955 N Fremont Ave
Idaho Falls, ID 83415

Reva W. Walker Trust
PO Box 32
Arco, ID 83213-0032

Idaho Power Company
c/o Kresta Davis-Butts
PO Box 70
Boise, ID 83707

Fredric Price
U.S. Bureau of Land Management
1387 S Vinnell Way
Boise, ID 83709-1657

Randy McAfee
c/o Trilby McAfee
3663 Antelope Road
Moore, ID 83255

Form 202A 04/17

ID No. TP-34-26STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESRECEIVED
DEC 16 2019

APPLICATION FOR TEMPORARY APPROVAL OF WATER USE

For a use not intended to become an established water right and not to exceed one (1) year in duration in accordance with Idaho Code § 42-202A.

Department of Water Resources
Eastern Region

Name of applicant Water District 34 Phone (208) 588-3137
 Mailing address PO Box 53 City Mackay
 State ID Zip 83251 Email waterdistrict34@atcn.net

1. Source of water Big Lost River tributary to Sinks
 2. Location of point(s) of diversion. If more than two, attach a Point of Diversion/Place of Use Supplement. ☐

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
06N	25E	14			NW	SE	Custer	Big Lost River	Blaine/3in1 Heading
06N	25E				NW	NE	Custer	Big Lost River	Beck/McGowan

3. Location of place of use. If more rows are needed, attach a Point of Diversion/Place of Use Supplement. ☐

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
See	Map																		

4. Proposed use of water:

- a. ☐ Prevention of flood damage ☒ Ground water recharge ☐ Ground water or surface water remediation
☐ Other (Limited to a diverted volume of 5 acre-feet.) Describe: _____
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5. Amount of water. Complete all three:

- a. Maximum rate of diversion: 40 cfs; or _____ gpm.
 b. Maximum daily volume: 79.2 AF; or _____ gallons.
 c. Maximum volume over the duration of the request: 9,500 AF; or _____ gallons.
 6. Duration of diversion: from December 1, 2019 (month-day) to April 1, 2020 (month-day).

7. Describe proposed diverting works: Lockable headgates and measuring devices.

8. a. Who owns the property at the requested point of diversion? WD 34 and/or Big Lost River Irrigation District
 b. Who owns the facilities that will convey water to the place of use? WD 34 and/or Big Lost River Irrigation District
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 d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. Written agreement with BLRID to access canals and recharge sites.

9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Signature of Applicant [Signature] Title, if any Water Master Date 12-16-19

Received by _____ Date _____ Time _____
 \$50.00 fee received by CH # E045380 Date 10/9/19
 Watermaster comments received? _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TEMPORARY APPROVAL OF WATER USE

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Name of applicant Water District 34 Phone (208) 588-3137
Mailing address PO Box 53 City Mackay
State ID Zip 83251 Email waterdistrict34@atcnet.net

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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
See	Map																		

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- a. ☐ Prevention of flood damage ☒ Ground water recharge ☐ Ground water or surface water remediation
☐ Other (Limited to a diverted volume of 5 acre-feet.) Describe: _____
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I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Signature of Applicant _____ Title, if any _____ Date _____

Received by _____ Date _____ Time _____
\$50.00 fee receipted by CH # E045380 Date 10/9/19
Watermaster comments received? _____ Date _____

Application for Temporary Approval of Water User

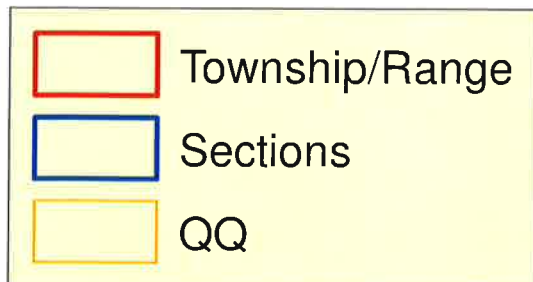
Water District 34

The district would like to divert water for ground water recharge at two locations during the winter months. The district holds Permits 34-7571 and 34-7573, which are limited by settlement agreement to only be available when the flow of the Big Lost River at the Arco gage is 60 cfs. During the winter months, there is usually not enough flow in the river to meet the 60 cfs threshold, even if the entire river is left in the river channel. We would like this temporary approval to be treated as a futile call diversion, to authorize ground water recharge when the 60 cfs threshold at the Arco gage could not be achieved, even with the full flow of the river below Mackay Dam. The district intends to keep the river live to Arco and would be open to a condition requiring that enough flow be left in the river to maintain a liver river channel to Arco.

Proposed Points of Diversion Application for Temporary Approval - WD34



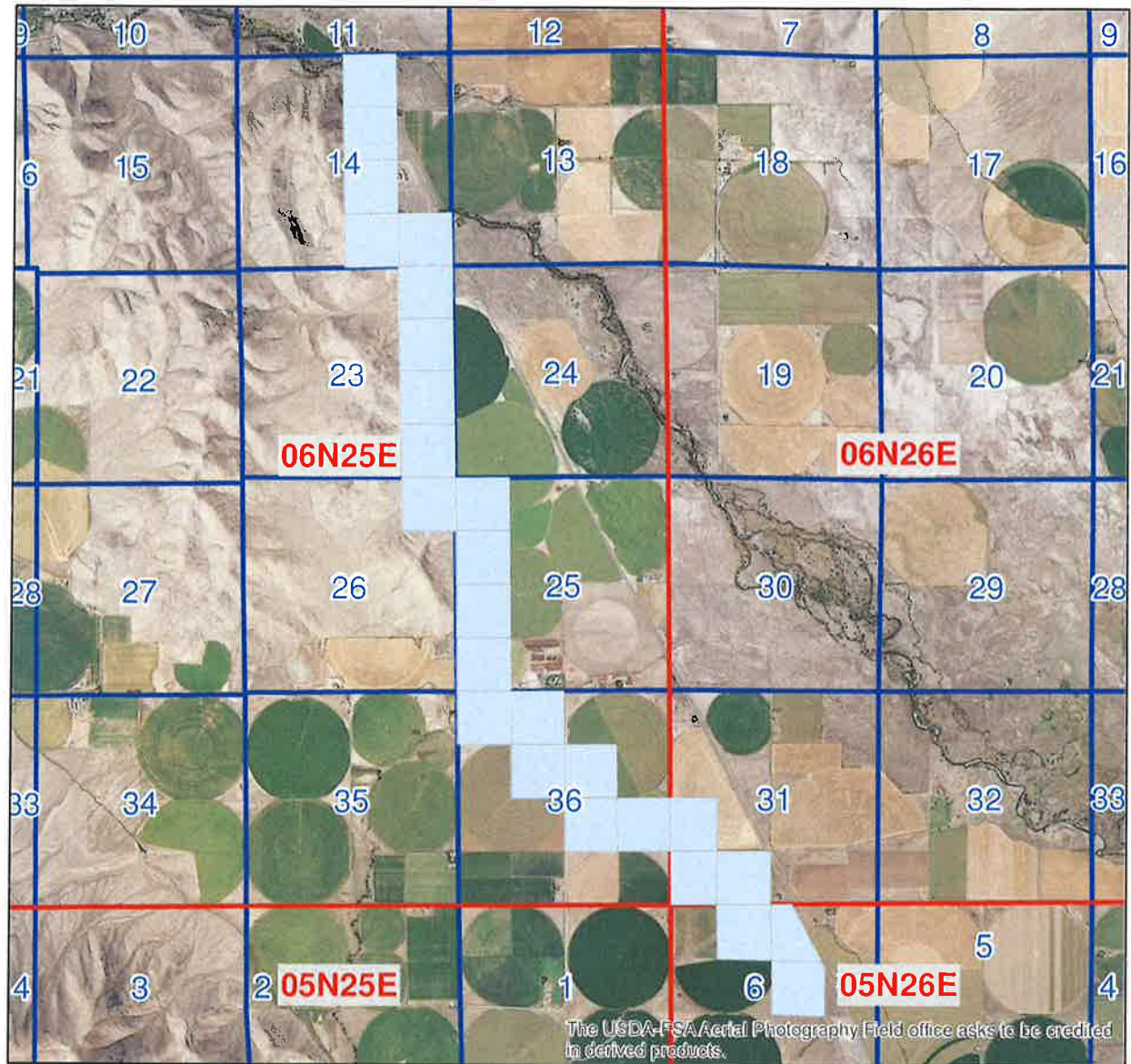
2013 Aerial Photo



0 750 1,500 Feet

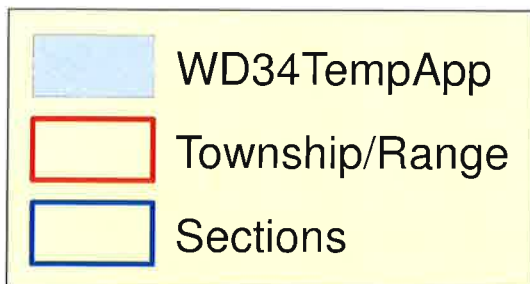


Proposed Recharge Place of Use Application for Temporary Approval - WD34



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

2013 Aerial Photo



0 4,000 8,000 Feet



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JUN 22 1995

Department of Water Resources
Eastern District Office

AGREEMENT

This Agreement is entered into this 5th day of June, 1995 by the applicants of water right application for permit nos. 34-07571 and 34-07573 for the purposes of:

- 1) Adoption and support of the PLAN OF OPERATION, BASIN 34 RECHARGE, dated May 23, 1995 attached hereto and made a part of this Agreement.
- 2) Withdrawal of protests by the applicants for water right application for permit no. 34-07573 against application for permit no. 34-07571.
- 3) Agreement by applicants for water right application for permit no. 34-07571 not to protest application for permit no. 34-07573.
- 4) Providing mutual support for approval of both water right application for permit nos. 34-07571 and 34-07573.

Signed and effective the day first above written.

Representatives for application for permit no. 34-07571.



Mitchell D. Sorensen



Seth Beal

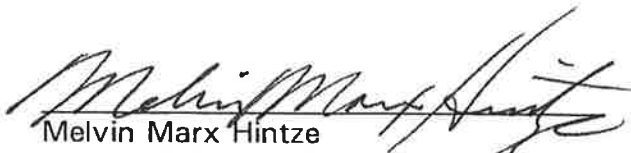
Representatives for application for permit no. 34-07573 and protestants against application for permit no. 34-07571.



Dave Nelson



Randy McAfee



Melvin Marx Hintze



Harry Crawford

FEB 1 1996

**BIG LOST RIVER RECHARGE
SETTLEMENT AGREEMENT AND STIPULATION**

WHEREAS, applications have been submitted to the Idaho Department of Water Resources to appropriate waters from the Big Lost River and tributaries for purposes of aquifer recharge, in the names of Mitchell Sorensen et al. (No. 34-07571) and Dave Nelson et al. (No. 34-07573) (hereafter, "Applicants"); and

WHEREAS, protests have been filed to said applications under I.C. § 42-203A et seq., by protestants U.S. Dept of Energy, Idaho Rivers United, Big Lost River Waterusers Association, Reva Walker, Charles Huggins, Dennis and Trudy Braswell, and Lester Braswell (hereafter, "Protestants"); and

WHEREAS, Applicants and Protestants all desire to see recharge occur in the Big Lost River valley in a manner which is both effective hydrologically and broadly benefiting all residents and interests in the valley; and

WHEREAS, Water District 34 has already agreed to accept assignment of and hold the recharge permits issued by the Idaho Department of Water Resources (IDWR), and to conduct recharge efforts pursuant to such permits; and

WHEREAS, Applicants and Protestants desire to facilitate successful recharge in 1997 and future years, and to resolve the pending protests amicably and without the need for hearing under the terms of this agreement; and

WHEREAS, Applicants and Protestants agree and stipulate that recharge efforts in the Big Lost River basin, if conducted according to the terms and conditions set forth herein, will serve the local public interest, conserve the water resources of the State of

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4. Water District 34 shall, at its next regular or special meeting, confirm its acceptance of said recharge permits under the terms and conditions set forth herein. Failure to do so or rejection of any terms and conditions as set forth herein shall render this Settlement Agreement and Stipulation null and void, shall require IDWR to cancel the recharge permits, and shall reinstate the pending applications to the Applicants (without loss of priority date from the applications' filing), and shall reinstate the pending protests by the Protestants.

5. Upon issuance of said recharge permits by IDWR, those permits shall be held and implemented by Water District 34 strictly in accordance with Resolution No. 3-3-1997 of the water users of Water District 34 dated March 3, 1997, and the Plan of Operation, attached hereto and incorporated herein by reference as an integral part of this Settlement Agreement and Stipulation.

6. Following issuance of the recharge permits by IDWR and their acceptance by Water District 34, the terms and conditions of this Stipulation and Settlement Agreement shall be deemed fully satisfied. In the event of violation or failure to adhere to the terms and conditions of the Plan of Operation, the parties to this agreement may invoke or seek any available remedy or relief as provided by law. Any such violation or failure to adhere to the terms and conditions of the Plan of Operation may also be raised by any party and considered by IDWR as grounds for denial of a license.

7 All parties shall bear their own costs and attorneys fees associated with the applications, protests, and administrative proceedings relating thereto. However, upon approval by Water District 34, Applicants are entitled to reimbursement of their

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Protestant Dennis & Trudy Braswell

Protestant Lester Braswell

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**PLAN OF OPERATION
BASIN 34 RECHARGE
April, 1997**

Introduction

This Plan of Operation is intended to implement the recharge effort in Basin 34 to accomplish the objectives of the water users of Water District 34 and the parties to the Settlement Agreement and Stipulation executed herewith. Recharge efforts utilizing water rights nos. 34-07571 and 34-07573 (recharge water rights hereinafter) shall be conducted in accordance with this Plan of Operation. Under this Plan of Operation the recharge water rights are to be used without regard for the relative priority between the two water right filings in a manner to fully and efficiently use the available water supplies and provide benefit throughout the basin.

The objectives of this Plan of Operation are to benefit all lands in the basin from flood water supplies that would otherwise exit the basin by maintaining reasonable river flows from the head of the valley to the Arco gaging station and the controlled diversion of otherwise unappropriated water into selected recharge sites. The expected basin wide project benefits are anticipated to be the following:

- 1) greater usage of flood water supplies.
- 2) flood control/stream bank protection.
- 3) recharge to natural springs and aquifer levels.
- 4) enhancement to fish and wildlife habitat and aesthetic values.
- 5) reduce damage caused by sub-water adjacent to river.
- 6) extended periods of river flows.
- 7) improved conveyance of diverted water supplies.
- 8) aquifer replacement of ground water supplies.
- 9) mitigation for senior surface water rights.
- 10) demonstration of community cooperation.
- 11) reduce or eliminate the need to curtail existing ground water rights.
- 12) maintain ground water levels for domestic wells.
- 13) develop greater understanding of ground and surface water hydrology in the basin.

Permit Terms and Conditions

The following terms and conditions relate to elements of the recharge water rights and are sought to be incorporated into the permits issued by IDWR for the recharge water rights. These terms and conditions remain integral parts of this Plan of Operation whether or not incorporated into the permits by IDWR.

Requirements and Guidelines for Recharge

Diversions of water for recharge shall be limited so as to not de-water (dry up) stream channels or increase the extent of de-watered stream channels at the time of the recharge diversion. Many tributaries to the Big Lost River and the Big Lost River itself do not have wetted channels for the entire length of the stream channel during portions of the year and during periods of drought. Among the purposes of this recharge plan is to retain water within the basin that would otherwise leave the basin downstream from the Arco gage as "flood flows." While retaining the water as high in the basin as possible may produce some benefit by extending the time the water may remain in the basin that added benefit does not off-set the value of recharging in the immediate vicinity of the stream channel itself to help maintain the integrity of the stream channel. The water supply required for maintaining wetted stream channels is self limiting since, as the ground water is recharged in the vicinity of the stream channel, smaller amounts of water will be required to maintain the stream and larger amounts of water will be available for diversion for other purposes. Additionally, the diversion of water for recharge from tributaries to the Big Lost River should not increase the amount of dry channel that exists for that tributary.

For the Big Lost River itself downstream from Mackay Dam, diversion for recharge downstream from Mackay Dam will not occur unless the flow at the Arco gage is 60 cfs or more, measured as a three consecutive day average. The 60 cfs at the Arco gage is for purposes of this Plan of Operation only and is not and cannot be construed as a minimum flow or minimum flow water right under any theory of law.

In the event of a brief but intense weather event which is anticipated to produce flood flows for a period of three days or less, the Recharge Committee may call for and the Watermaster may deliver water for recharge purposes even if the flows at the Arco gage are below 60 cfs so long as the flow at the 2-B Gage is 300 cfs, or more, in excess of the non-recharge water deliveries occurring from the Big Lost River downstream from Mackay Dam.

Delivery of Water for Recharge

Delivery of water pursuant to the recharge water rights under this Plan of Operation is limited to the use of water for recharge purposes only and is subject to all prior water rights including, but not limited to, irrigation, stock water and storage. The Watermaster may, however, deliver water for recharge prior to the filling of all storage rights when the owner(s) of the stored water concurs that the reasonably anticipated runoff is sufficient to fill all storage rights and provide water for recharge.

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Other Terms and Conditions

The following terms and conditions are not anticipated to be included by IDWR in the recharge water permits themselves, but nevertheless are integral parts of this Plan of Operation and the recharge effort undertaken pursuant to the Plan of Operation.

Control of recharge water rights

The recharge water rights shall be held and exercised by Water District 34 and are subject to the control of the Watermaster of Water District 34 (Watermaster hereinafter) for water distribution purposes pursuant to the Water Distribution Rules for Water District 34, the terms and conditions of this Plan of Operation, and all applicable laws and regulations. The Watermaster shall be guided and informed by the Recharge Committee, as set forth herein, regarding the control of the recharge water rights.

Delivery of recharge water shall be made to benefit the Big Lost River basin as a whole. As weather and water conditions change in the Big Lost River basin and as new recharge sites are developed, the Recharge Committee shall be guided by the goal to fully and efficiently use the available water supplies to provide benefit throughout the basin in the spirit of community cooperation and consensus.

Recharge Committee

Calls for delivery of recharge water will be made only by the Recharge Committee under the conditions and guidelines set forth herein. Calls for and delivery of recharge water will be according to this Plan of Operation and other applicable laws and regulations. Calls for delivery of recharge water by the Recharge Committee will be consistent with the intent of the water users of Water District 34 to provide benefits throughout the basin.

The Recharge Committee will have principal responsibility for selecting recharge sites and locations, dates for recharge efforts in any particular year, and for working with other entities (BLRID, BLM, land owners, etc.) to obtain the necessary permits and authorizations for use of recharge sites. The Recharge Committee may make recommendations to Water District 34 and the Watermaster about appropriate arrangements for obtaining authorization for use of recharge sites. The Recharge Committee is urged to seek technical assistance, as required, from local, state, or federal natural resource agencies.

The Advisory Committee shall act promptly upon a complaint by any interested party that one or more members of the Recharge Committee should be removed for good cause. Good cause for removal of a committee member includes, but is not limited to, failure to diligently attend to the duties of the Recharge Committee, and failure to act in accordance with the goals or terms and conditions of this Plan of Operation.

Monitoring, Evaluation, and Accounting for Recharge

Recharge diversions will be accounted for by the Watermaster on an annual basis in a report to be submitted to the Recharge Committee and the Director of the Department of Water Resources. Only those flows diverted under the authority of the recharge water rights are to be accounted for as recharge. Canal seepage that occurs during the normal delivery of water pursuant to non-recharge water rights will not be counted as recharge.

Monitoring and study of the effects of recharge is a desirable part of this Plan or Operation. The Recharge Committee is encouraged to undertake a study, including monitoring and evaluation, to evaluate the effect of ground water recharge in the basin. The Recharge Committee is encouraged to seek the assistance and cooperation of local, state and federal agencies to complete the study.

Recharge and Mitigation

It is beyond the scope of this Plan of Operation to propose a specific mitigation plan that utilizes the recharge that will occur under this plan. Nothing in this plan, however, prevents any ground water user from proposing a mitigation plan to the Director of the Idaho Department of Water Resources, pursuant to Rule 50.04.c.iii or Rule 50.04.e of the Water Distribution Rules - Water District 34, IDAPA 37 Title 03 Chapter 12.

Costs

Water District 34 will be responsible for all costs associated with the recharge effort pursuant to this Plan of Operation including reimbursement of the application fees and other reasonable costs as provided by Resolution No. 3-3-1997 of the water users of Water District 34 dated March 3, 1997, and recharge facilities development and maintenance. Water District 34 may seek to defray these costs by seeking contributions from the beneficiaries of the recharge effort or by other means.

Plan of Operation - page 7
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Summary of Phone Conversation

February 10, 2020

Bill Walker

On February 10, 2020, I received a phone call from Bill Walker (representative of the Walker Family Trust). He asked for an explanation of what was being proposed in the Water District 34 Application for Temporary Water Use. I described the proposal. Mr. Walker said that he agreed that less water should be sent out to the desert. He explained that Reva Walker fought for years to get water back into the Spring Creek channel. Her objection to the original permit applications was focused on the Spring Creek channel. Mr. Walker is not opposed to the pending application, but wants the Water District 34 Recharge Committee to initiate a project to make Spring Creek an active waterway again. I suggested that Mr. Walker attend a meeting of the Recharge Committee and present his idea.



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Department of Water Resources
Eastern Region

IDAHO DEPARTMENT OF FISH AND GAME
SOUTHEAST REGION
1345 Barton Road
Pocatello, Idaho 83204

Brad Little / Governor
Ed Schriever / Director

February 13, 2020

James Cefalo
Regional Manager
Idaho Department of Water Resources
900 N. Skyline Drive; Suite A
Idaho Falls, ID 83402

RE: Notice of Application for Temporary Approval of Water Use TP-34-26 in the Name of Water District 34

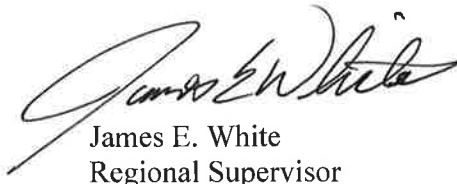
Dear Mr. Cefalo:

The Idaho Department of Fish and Game (IDFG) has reviewed the Application for Temporary Approval of Water Use TP-34-26 as well as the Recharge Plan of Operation and Settlement Agreement with Stipulation. The Applicant has requested that the 60CFS at the Arco gauge be treated as a "futile call diversion" during this temporary approval. Additionally, the Applicant has stated that they would be open to a condition requiring enough flow be left in the river to "maintain a living river channel".

IDFG would like to request a meeting with the Applicant and IDWR to better understand the proposal. Based on the information provided, it is difficult to fully understand and anticipate the biological realities associated with treating water rights 34-7571 and 34-7573 as futile call diversions throughout the entire system. IDFG would like to better understand the project to provide IDWR and the Applicant with the relevant information about potential impacts to fish and wildlife in and around the Big Lost River.

IDFG appreciates the opportunity to review and comments on this Application for Temporary Approval of Water Use. Please contact Jacob Gray (jacob.gray@idfg.idaho.gov) to set up a meeting or to request additional information.

Sincerely,



James E. White
Regional Supervisor

jmg/jew/jmh

Keeping Idaho's Wildlife Heritage

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Department of Water Resources
Eastern Region

Idaho Department of Water Resources

Notice of Application for Temporary Approval of Water Use TP-34-26 In the Name of Water District 34

To: James Cefalo Regional Manager

February 13, 2020

From: Joel Andersen Big Lost River Water Users Association

Subject: Comment Letter for Winter Recharge

Big Lost River Water Users Association is apposed to Winter Recharge on the Big Lost unless there is River flows to the Huggins/Braswell bridge. In recent years higher than normal snowpack has helped in recharging the lower Valley. However, even with higher snow pack and the River flowing during certain times and months, not all water rights have been restored. Several Spring rights with earlier priority than ground water diversions are still suffering for a lack of flows in the River above and below Arco. Big Lost River Recharge Settlement Agreement and Stipulation states that the purpose is to "hydrologically and broadly benefiting all residents and interests in the Valley". A study was conducted last year by INL and The Department of Water Resources. We are unaware of the results and findings of this study. Until that study or additional studies support sinking water in Custer County will benefit the situation above and below Arco we oppose this Winter Recharge.

Sincerely,

Joel Andersen, Big Lost River Water Users Association



Harvey Walker
2338 N. 2930 W.
Arco, Id. 83213
208-520-7880

State of Idaho Department of Water Resources
Eastern Region
900 N. Skyline Dr. Suite A
Idaho Falls, Idaho 83402-1718

FAX 525 2197

Attn. James Cefalo

Re: Application for Temporary Approval of Water Use
TP-34-26 in the Name of Water District #34

Dear State of Idaho Department of Water Resources

The Big Lost River should stay alive and continue to
run to the Huggins Bridge, in the winter months. The
plan of operation needs to be changed.

Sincerely,


Harvey Walker

Idaho Dept of Water Resources
900 N. Skyline Drive Suite A
Idaho Falls, Idaho 83402

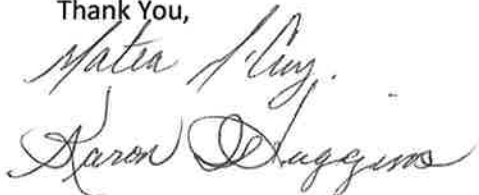
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Department of Water Resources
Eastern Region

Date: February 9, 2020

Subject: Objection to Application TP-34-26 From Matea McCray and Karon Huggins

The 60 CFS of water passing the Arco Gauge in the BLR recharges the groundwater (per the referenced settlement agreement) for all of us on the lower end of the river, including the entire city of Arco. We therefore oppose IDWR granting this application.

Thank You,

The block contains two handwritten signatures in cursive. The first signature is "Matea McCray" and the second is "Karon Huggins".

Matea McCray
3470 Cobblestone Ln.
Idaho Falls, Idaho 83404
208-360-2826

Karon Huggins
2132 N 2900 W
Arco, Idaho 83213



BUTTE COUNTY COMMISSIONERS

COURTHOUSE
P.O. BOX 737
205 W. Grand Avenue
ARCO, IDAHO 83213
(208) 527-3021
FAX (208) 527-3295

BRIAN HARRELL
ROSE BEVERLY
WES COLLINS

Butte County Board of Commissioners
P.O. Box 737
Arco, ID 83213
208-527-3021
butteclerk@atcnet.net
Thursday, February 13, 2020

State of Idaho Department of Water Resources
Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

RE: Notice of Application for Temporary Approval of Water Use TP-34-26
in the Name of Water District #34

Dear State of Idaho Department of Water Resources:

The Butte County Board of Commissioners are issuing this letter of concern as they feel that it imperative that the Big Lost River stay alive and continue to run to the Huggins Bridge. We feel that this is currently being accomplished.

Sincerely,

A blue ink signature of Brian Harrell.

Brian Harrell, Chairman Butte County Board of Commissioners

A blue ink signature of Wes Collins.

Wes Collins, Butte County Commissioner

Cefalo, James

From: muchcorner@atcnet.net
Sent: Tuesday, February 18, 2020 4:26 PM
To: Cefalo, James
Subject: TP-34-26

Mr. Cefalo;

In regards to the above referenced application I would like to voice my opposition to the application. I live approximately 1000 feet from the Big Lost River and have had to deepen my well twice, with a new well having to be placed also. I do not approve of any diversion of water out of the river. It has cost this valley dearly.

Thank you for your time

Judy Stedtfeld
P.O. Box 175
Arco, ID. 83213