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Steve ✓
WD65 File —

WATER DISTRICT NO. 65

102 N. Main St.
Payette, Idaho 83661
Phone (208) 642-4465
Fax (208) 642-1042

RECEIVED

JUN 14 1995

WATER RESOURCES
WESTERN REGION

June 12, 1995

Dear Advisory Board Member,

Enclosed please find copies of the Applications for Transfer of a Water Right numbers 4625-28, filed by the Bureau of Reclamation for the purpose of adding beneficial uses to existing water rights held on Cascade and Deadwood Reservoirs within Water District No. 65. These additional uses include conservation storage and conservation from storage to benefit Idaho fish and wildlife, as well as use of stored water for flow augmentation to help save endangered salmon and mollusks within the confines of the Snake and Columbia Rivers. These applications were filed on May 15, 1995, and were advertised beginning the week of June 5, 1995. The formal protest period on these applications ends June 26, 1995. For any entity desiring to protest these applications, a \$25 fee must accompany the protest. As of today, Payette River Water Users Association has filed a formal protest on these applications on behalf of all their members. Also enclosed is a copy of my recommendations, as Watermaster, on the applications as they pertain to existing water right holders within the boundaries of Water District No. 65. These recommendations were sent to the Director today, and are required of me under Sec. 42-222(1), Idaho Code. It is also my recommendation that all irrigation districts, companies, and independent users on the Payette River protest these applications for transfer, in addition to Payette River Water Users Association. In your letters of protest, you must touch on whether or not these applications expand the existing water right, whether the transfers injure any other water rights, whether the transfers are consistent with the conservation of water resources within the State of Idaho, and whether the proposed transfer is in the local public interest (Sec. 42-222(1), Idaho Code). The local public interest is defined under Sec. 42-203(5), Idaho Code, as "the affairs of the people in the area directly affected by the proposed use".

If you have any questions regarding these applications for transfer, or information to compile your protests, please call me. It is imperative that we all work together to protect the water resources we have come to depend upon for our livelihoods.

Sincerely,



Mark Limbaugh, Watermaster

✓cc: Dave Tuthill, Jr., IDWR
Wilbur "Brick" Andrew, Chairman, WD#65
Marsha Herr, Secretary, WD#65

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**WATER RESOURCES
WESTERN REGION**

June 12, 1995

Mr. Karl Dreher, Director
Idaho Department of Water Resources
Attn: Jim Johnson
1301 N. Orchard
Boise, Idaho 83720

Gentlemen:

As Watermaster for Water District No. 65, State of Idaho, it is my responsibility to comment on the Applications for Transfer of Water Rights Nos. 4625-28. It is my understanding that the U.S. Bureau of Reclamation is asking, through these applications, to add beneficial uses, to include conservation storage and conservation from storage in purportedly protecting Idaho fish and wildlife, use of stored water to augment flows to purportedly help save endangered Idaho raised salmonids and the use of stored water to augment flows to purportedly help save endangered mollusks within the confines of the Snake and Columbia River Systems, to their existing water rights on Cascade and Deadwood Reservoirs, located within the boundaries of Water District No. 65. According to these applications, a maximum of 427,000 acre feet of stored water from the upper Snake River Basin would be required to augment flows downstream, which agrees with the Biological Opinion issued on March 2, 1995, and was recommended by the NMFS Recovery Plan. As Watermaster for our District, I have reservations concerning the approval of these transfers as they directly affect the water rights of and deliveries to existing water users within Water District No. 65.

Any permanent change to an existing water right is, in and of itself, a major decision. Many factors come into play in determining the future impact such changes will have to existing water users. At this time, you are considering a permanent change to very large and important water rights within our state, those of the Bureau of Reclamation on a number of large storage reservoirs. These reservoirs are the "crown jewels" of the State of Idaho, projects undertaken by our grandfathers and great-grandfathers to bring prosperity and livelihoods to future residents, projects which have had a major impact on this state's economy and communities, projects which miraculously made the desert bloom. Many generations of Idahoans have developed farms and ranches dependent upon water from these great projects. Some of these Idahoans are water users on the Payette

River, and are those who will be adversely affected if these transfers are approved to allow out of basin and environmental uses as beneficial uses. Currently, these uses are allowed on temporary authorizations, some legislative, some administrative. But the key word is "temporary".

Flow augmentation has not proven itself of any benefit to endangered salmon runs, let alone the State of Idaho, and should be considered an experiment instead of a beneficial use of Idaho water. Current beneficial use on existing water rights within the state has proven over many years to be a major contributor to Idaho's economy. For years, efforts have been undertaken to improve conservation of this important resource for future generations of Idahoans. Allowing out of basin use of storage water from our reservoirs on a permanent basis is contrary to conservation of Idaho's water, and should be considered against the local public interest. For example, during 1977, Cascade reservoir accrued only 20,300 acre feet of reservoir fill (out of 298,700 acre feet of space to fill). During that year, most of the uncontracted space, as well as 87,600 acre feet of the conservation pool, was allowed to be used by irrigators due to the tremendous shortage of water. Committing this space to competing uses out of basin will virtually eliminate future irrigation use of this space during extreme drought conditions, and cause extensive hardship to agricultural interests during those years. Priority during extreme drought years should be given to existing beneficial uses within the State of Idaho.

During the past eight years, drought conditions have become the rule rather than the exception in Water District No. 65. Five out the past eight years could be classified as drought years, based on river flows and reservoir fill. Currently, in basin water users are protected from out of basin use of stored water by last to fill provisions designated in our rental pool rules of procedure. If space is leased for out of basin flows, or in the case of the Bureau, uncontracted space is leased for out of basin flows, the next year that space is the last space to fill in the reservoir. Consequently, during a drought year, in basin use is protected as first to fill in the reservoir, with the out of basin user or lessor sharing in any shortage of reservoir fill associated with the drought year. If these transfers were allowed, this last to fill protection of existing storage water users would disappear, as out of basin use would be considered a beneficial use within the state at that point. The importance to existing water users of the last to fill clause in our rental pool rules of procedure for out of basin use cannot be emphasized enough. Some of our users on the Payette depend on their total contracted space practically every year to provide enough water to survive the irrigation season. For example, Black Canyon Irrigation District, just last season, used all but 6,966 acre feet of their storage space, out of a total 241,148 acre feet of storage space. This was a direct result of extremely low natural flows in the Payette River due to drought conditions and higher than average temperatures. As a result of the 1993 flow augmentation from the Bureau of Reclamation's release of 69,600 acre feet from uncontracted space in Cascade Reservoir, all of this uncontracted space was considered last to fill space in 1994. But during the winter of 1994, a shortage of snowpack left Cascade Reservoir less than full. Black Canyon space filled completely, due to the fact that they carried over a large amount of storage water from 1993 and they did not lease any of their storage water for out of basin use in 1993 and were not subject to last to fill provisions. The uncontracted space released out of basin in 1993 by the Bureau, however, only filled to 16,522 acre feet due to last to fill provisions for 1994.

The Bureau then released 24,464 acre feet from uncontracted space in Cascade Reservoir for out of basin flow augmentation. This created a total of 77,542 acre feet of uncontracted storage space which is considered last to fill uncontracted space for the 1995 accounting. Other contractors leasing storage water out of basin added 12,773 acre feet of last to fill storage space to this total. If we recalculated all storage accruals for 1995 assuming that 1995 fill was 270,000 acre feet (an average semi-dry year based on historical data) and using 1994 carryover figures to begin the 1995 season, we can expect the following differences in Black Canyon Irrigation District's storage accounts, as well as other contracted and uncontracted storage space in Cascade Reservoir, assuming both current last to fill provisions and the effect of no last to fill provisions:

	<u>With Last to Fill</u>	<u>Without Last to Fill</u>
Black Canyon Irr. Dist.	227,539 acre feet	185,616 acre feet
Other Contracted Space	59,761 acre feet	51,718 acre feet
Uncontracted Space	<u>261,966 acre feet</u>	<u>311,932 acre feet</u>
1995 Maximum		
Cascade Reservoir Level	549,266 acre feet	549,266 acre feet

Elimination of last to fill provisions for out of basin flows would take storage water away from Black Canyon in order to share the limited fill with out of basin users, namely the Bureau of Reclamation. The fact that Black Canyon Irrigation District would have been shorted about 42,000 acre feet of storage water if last to fill provisions were not in place might have led to extensive hardships to irrigators supplied by Black Canyon Irrigation District. If these applications are to be considered, certainly last to fill provisions outlined in our rental pool's rules of procedure should remain in force for any out of basin use in order to protect existing water users within the State of Idaho.

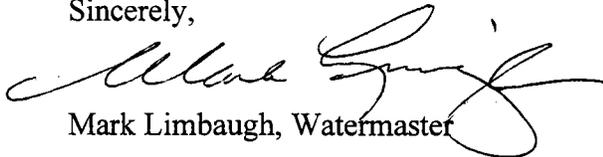
Water District No. 65 operations will also be adversely affected if these transfer applications are approved. The past several years, the Bureau of Reclamation has paid the Water District, through the rental pool, a \$.50 per acre foot fee to cover any and all costs associated with accounting for flows out of basin. In the past, these funds have also been used to construct and improve measuring devices on the river through a cost share program offered within the Water District. Allowing the Bureau to flush all water accruing to uncontracted space through the system during peak irrigation use creates many accounting problems which must be addressed by the Water District. The requirement that these out of basin flows continue to pay the appropriate fees and be accounted for through our rental pool should be specified as a prerequisite if these applications are to be considered for approval.

Many water users pump from the Payette River but are without storage space in the reservoirs. Until a few years ago, these users pumped uncontracted stored water provided as additional flows to the river. When the uncontracted space was designated for flow augmentation, these pumpers were required to rent stored water from the rental pool to complete their irrigation seasons. During drought conditions, these pumpers might not be able to rent the necessary stored water from the rental pool, as storage space holders would be reluctant to lease water during those times. The Bureau currently

considers approximately 19,900 acre feet in Cascade Reservoir as committed space to industrial, municipal, or irrigation needs. In the recent past, however, the Bureau has used this space to absorb their portion of evaporation charges for Cascade Reservoir. In considering any change in use of this uncontracted space, a provision to require the Bureau to annually lease a portion of this committed space to the rental pool for these pumpers to rent would be appropriate considering the competing uses of stored water, previously used for irrigation, described in these applications for transfer.

The above comments are but a few of the major impacts to existing water users within Water District No. 65 if these transfers were to be allowed by the Department. Again, the permanent nature of these changes suggest many more far reaching and devastating impacts to future water users and the economy of the State of Idaho. If these flows out of basin for flow augmentation are to continue, my suggestion is that the State provide temporary provisions through local rental pools, and assess the impacts and beneficial use of stored water used in this manner on a periodic basis. It is my conclusion to advise you to disallow the permanent transfers of these water rights as the applications read at this time, based on the aforementioned impacts to water users within our District. If you have further questions, or if I can be of assistance to you in dealing with this complicated decision, please do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark Limbaugh".

Mark Limbaugh, Watermaster

cc: Wilbur "Brick" Andrew, WD#65 Chairman
Marsha Herr, WD#65 Secretary
WD#65 Advisory Board
Bob Henggeler, PRWUA President
Sherl Chapman, IWUA Executive Director
Dave Tuthill, Jr., IDWR Western Region Manager