

Roberts, Christine

From: Luke, Tim
Sent: Tuesday, June 05, 2007 9:50 AM
To: Baxter, Garrick
Cc: Roberts, Christine
Subject: FW: MLWU Letter

Garrick,

See Gene's notes and photos of Rays Lake and MLWU levee/headgate. The leakage looks minimal to me (way less than 4 cfs), and both photos and visit seem to confirm that currently there is no commingling of sources. Thus, I probably don't have any concern authorizing MLWUA to pump the leakage water unless you have some legal questions or issues. This authorization should be for the present or this year given these conditions. I am concerned whether giving authorization now sets up a situation whereby they pump commingled water in future years (revert back to original situation) without some sort of order or direction etc to the watermaster/MLWUA. I wonder if the pump should be listed at least as a point of re-diversion under the ground water right(s), that way we at least have some legal recognition of diversion point for management purposes. Alternatively, perhaps MLWUA should file an application for permit with waste water being the source. Adding a re-diversion POD under a transfer or a waste water right would at least create a process and vehicle to place conditions on the use of the water and/or pump.

Christine, please copy these photos to a photo directory under WD31 2007 on A012.

Tim

[Luke, Tim]

Tim,

The gauges are about 320 ft upstream from the levee. The bridge is about 1 1/2 mile upstream from the levee.

Gene

-----Original Message-----

From: Luke, Tim
Sent: Tuesday, June 05, 2007 9:24 AM
To: Hansen, Gene; Carlsen, Ernie
Subject: RE: MLWU Letter

Thanks Gene, good work. Where are the locations of the bridge and the staff gages in relation to the MLWUA levee/headgates?

Tim

-----Original Message-----

From: Hansen, Gene
Sent: Tuesday, June 05, 2007 9:06 AM
To: Carlsen, Ernie
Cc: Luke, Tim
Subject: RE: MLWU Letter

Ernie,

This is what I found when visited on 6/4/2007 at about 3:30 pm.
 The first four pictures show the northeast end of Rays Lake.
 The next three photos show flows (lack of) on a bridge.

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The next two photos show a guage with the moss folded showing an upstream flow, that is, flow from the levee to Rays Lake.

The next three photos show the leakage from the head gates on the levee.

Gene

-----Original Message-----

From: Carlsen, Ernie

Sent: Monday, June 04, 2007 11:15 AM

To: Hansen, Gene

Subject: FW: MLWU Letter

Gene, If Blake is in the area of Mud Lake today do you have a way to contact him? Tim and I are hoping he can be our eyes in the field and visit the pump site and to determine if groundwater being pumped into Camas Creek is leaking through the dam and comingling with water from Rays Lake. If Blake is available he needs to call or stop by the office for Mud Lake Water Users (663-4359) so one of their employees can accompany him.

Let me know what Blake's availability is?

Thanks

Ernie

-----Original Message-----

From: Luke, Tim

Sent: Monday, June 04, 2007 9:24 AM

To: Carlsen, Ernie

Cc: Baxter, Garrick

Subject: RE: MLWU Letter

Ernie,

I called Ryan this morning but learned he is out till the 6th. Please give me a call to discuss what anyone knows what Ryan observed, whether we need for him to return or if we should send someone else out.

Tim

-----Original Message-----

From: Carlsen, Ernie

Sent: Friday, June 01, 2007 8:53 AM

To: Luke, Tim

Cc: Swank, Lyle; Carlson, Dave; Madsen, Ryan

Subject: RE: MLWU Letter

Tim, I believe Ryan Madsen visited this site just a few days ago. He may have observed the water level in Rays Lake. He did mention there is some leakage through the head gate. I have not been there recently but it seems to me they could but a tarp below the water line and possibly stop the leakage.

Ernie

-----Original Message-----

From: Luke, Tim

Sent: Friday, June 01, 2007 8:11 AM

To: Carlsen, Ernie; Carlson, Dave

Cc: Swank, Lyle

Subject: FW: MLWU Letter

Ernie, Dave,

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Attorney for MLWU is claiming that Rays Lake is dry and Camas Creek not reaching the lake. They still want to pump water over that dyke from Rays Lake and are claiming they are losing 4 cfs through the gate. They are claiming they are only recovering gw that was pumped into the Camas Creek. I'm not sure how the flow was measured and I thought the gate had been fixed to minimize leakage. We don't doubt that the Camas Creek is flowing below the refuge but we are skeptical about the status of Rays Lake.

Can someone go up there early next week and take a look at the situation? We'd probably want to coordinate a visit with Greg Shenton. I may call Shenton today.

Tim

-----Original Message-----

From: Baxter, Garrick
Sent: Thursday, May 31, 2007 5:01 PM
To: Luke, Tim
Subject: FW: MLWU Letter

Here is Mud Lake's response. Let me know how soon you can get someone up there to look at it so we can then have a meeting to discuss.

Thanks,
 Garrick

Garrick L. Baxter
 Deputy Attorney General
 Idaho Department of Water Resources
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 Boise, Idaho 83720-0098
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 Fax: (208) 287-6700

-----Original Message-----

From: Rob Harris [mailto:rharris@holdenlegal.com]
Sent: Thursday, May 31, 2007 3:28 PM
To: Baxter, Garrick
Subject: MLWU Letter

Garrick:

Here is the letter.

Also, in the letter, I imply that the water behind the dike is mostly only water from Camas Creek, with a small amount of water from ground water seeping through the dike. In other words, the water is commingled. However, in dry years, the only water behind the dike is water that seeps through the headgates (which is water pumped from the wells located adjacent to the creek). This latter situation is what the MLWU are facing this year.

Thus, there are conceivably two situations involving the pump: 1) in dry years, the only water stranded would be pumped ground water that has seeped through the dike, and 2) in normal years, a mix of seeped groundwater and Camas Creek water which, without the dike, would make its way to Mud Lake.

It seems to us that in the first situation, the water being pumped over the dike has already been diverted (it is ground water) and we would not need a water right to recover it. As to the

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second situation, in which the water is commingled, you have addressed this situation in your letter to us, and our response to this is contained in attached letter.

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