



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
 Governor

KARL J. DREHER
 Director

November 17, 2003

Robert Duke, Watermaster
 Water District 34
 P.O. Box 53
 Mackay, ID 83251

Dear Mr. Duke:

As you have requested, this letter is intended to provide written documentation of our telephone discussion on October 9, 2003 regarding the delivery of winter stockwater in Water District 34. As we discussed, a memorandum providing additional detail on the basis for these directions, is attached for your reference.

As you noted, a number of water rights within Water District 34 were decreed with the comment, "The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described." For water rights decreed with this comment, the flow rate delivered at the diversion heading may exceed the stockwater flow rate if necessary to supply the stockwater flow rate where the delivery ditch enters the place of use described by the water right. However, water delivered in excess of the stockwater flow rate must not result in unreasonable waste of water, must be necessary to compensate for conveyance loss in the ditch, and may not be stored, used to increase soil moisture, or used for any type of beneficial use. Further, the flow rate delivered at the heading may not exceed the total flow rate of the water right.

For water rights that provide for winter stockwater, but do not include the comment referenced in the paragraph above, the flow rate at the diversion heading must be restricted to the winter stockwater flow rate, regardless of conveyance losses. Stockwater may not be delivered at points of diversion or places of use that are not authorized by a water right that specifies winter stockwater as a use. Incidental stockwater use is only allowed during the irrigation season of use.

As with irrigation water, stockwater may only be delivered when the water right is in priority. For stockwater rights below Mackay Reservoir, the general provisions define the minimum winter release from Mackay Reservoir. Stockwater rights below the reservoir may be called for and delivered if it does not interfere with storage in Mackay Reservoir by requiring a release of water in excess of the minimum release required at the 2b gauge, or the actual release of water, whichever is greater. A water right holder calling for delivery of winter stockwater must have access to a point of diversion and delivery system to convey the right to the place of use. If the headgate and delivery system are controlled by an entity other than the water user, the watermaster will only

deliver the water with the concurrence of the owner of the head gate and delivery system and then only when such delivery does not constitute unreasonable waste as determined by the Director.

For stockwater rights above Mackay Reservoir, stockwater may only be delivered to water rights that are senior to the unfilled reservoir storage rights. For example, until water right 34-10873 has been filled, stockwater rights senior to October 2, 1905 may be delivered, but stockwater rights junior to this date may not be delivered. After water right 34-10873 has been filled, stockwater rights senior to February 7, 1916 may be delivered, but water rights junior to this date may not be delivered until after water right 34-00012 has been filled.

Please contact me if you have any questions regarding this letter or the attached memorandum.

Sincerely,


Jennifer Berkey
Water Distribution Section

Attachment

cc: IDWR Eastern Region
Bob Schaffer, Big Lost River Irrigation District
Harvey Walker, Rt 1 Box 200, Arco ID 83213