Spackman, Gary

From: Mitchell Sorensen [soremd@ida.net]
Sent: Tuesday, February 01, 2005 1:15 PM
To: Spackman, Gary
Cc: Spackman, Gary
Subject: 2005 Consolidated Mitigation Plan

2005 Consolidated Bain-Wide Mitigation Plan[1] for Basin 34 Water Users

Revised – February 1, 2005

DRAFT Submitted - _____, 2005 DRAFT

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior ground water users whose ground water rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior ground water users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet those requirements by providing 6,110 ac-ft[2] of water to the Watermaster to augment the natural flow of the Big Lost River.

Proponents of this consolidation plan understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from Mackay Dam. Mitigation does not guarantee any particular water right will receive a full water supply in any year.

Proponents of this consolidated plan propose to use various water supplies such as replacement credits from managed aquifer recharge, storage allocation from the Mackay Reservoir, natural flow and impounded natural flow credits, and/or ground water pumpage as mitigation supplies as described and allowed for in Rule 50.04.c.iii. These supplies are listed hereinafter in preference of acquisition, but not necessarily in preference of use as explained in some detail below. Each of these supplies (with the exception of managed recharge) does not currently have a descriptive beneficial use element as "mitigation". However, each proposed water supply to be used as river augmentation does have "irrigation" listed as a beneficial use. The use of these proposed water supplies for "mitigation" purposes is incidental, and the primary beneficial use will remain as "irrigation". Each proposed water supply will be described by water right number and quantity (to the extent possible) when pledged and/or offered to the Water District. Approval of this proposed consolidated basin-wide mitigation plan by the Director should constitute formal IDWR approval for such supplies to be used as "mitigation/irrigation". Once this plan is approved, any supply used to augment the flows of the Big Lost River will be treated as natural flow for regulatory purposes.

If the Director approves this consolidated plan, it is proposed the plan will be presented to the water users at the annual water district meeting scheduled in March 2005. It is also proposed and anticipated a resolution will be presented at this annual meeting allowing water users to vote on the water district's adoption and sponsorship of this consolidated plan for all water users within the water district. If adopted, water users who wish to receive the protective benefits of this mitigation plan will be allowed to continue the diverting of their ground water rights upon the payment of their annual water district assessments as described in Rule 50.04.d, or in lieu of this "pooling participation", by direct pledge and acceptance of water supplies from valid water rights as described hereinafter. Water users who do not wish to participant in this consolidated plan may "opt-out" by giving written notice to IDWR of their intent as allowed for in Rule 50.04.e.

Individual pledge requirements of mitigation supplies and/or the direct costs associated with the acquisition of mitigation pool supplies will be allocated proportionately to the individual ground water user based upon their 2004 actual pumpage[3]. Ground water users will have the option of pledging their own mitigation water supplies directly to the Water District and/or participating in the "willing buyer-willing seller" mitigation acquisition pool

to the extent needed to satisfy their respective individual mitigation requirements. These assessment revenues would then be used and integrated into the annual water district budget for the purpose of acquiring water supplies on a "willing buyer-willing seller" basis, and at fair market prices negotiated by the parties. If the water district becomes the sponsoring entity, it appears the water district advisory committee [4] could act as the potential "willing buyer" in these water acquisition transactions.

Preference in acquiring mitigation water supplies would be as follows:

1.) Managed Aquifer Recharge supplies will be the first preferred option for providing mitigation to whatever extent such supplies are available. Recharge that is conducted by the water district's recharge committee, in compliance with the plan of operation incorporated into and made part of water rights nos. 34-7571 and 34-7573, will be considered as replacement credit water supplies for quantities of pumped ground water at the same rate as the established depletion factors. If recharge supplies [5] are of great enough quantities, the entire mitigation burden could be satisfied with such supplies.

Example: If 10,000 ac-ft were diverted into recharge sites, factored by 13%, equals 1,300 ac-ft of recharge replacement credited against the 6,110 ac-ft of mitigation requirement, leaving a balance of 4,810 ac-ft of mitigation burden to be provided from other water supplies.

2.) Storage Allocations from water rights nos. 34-00818, 34-00811, 34-00810, 34-10935, 34-00817B, and 34-10873, 34-00012, 34-02507 that are issued to the patrons of the Big Lost River Irrigation District may be pledged to and/or acquired by the sponsoring entity (presumably the water district) after a temporary transfer has been approved by IDWR. Any such water supplies used for the augmentation of the natural flow will be treated as if it were natural flow and will be distributed and subject to the elements of those benefiting natural flow water rights.

Example: Storage water supplies are normally allocated at the commencement of the irrigation season (early May) by the irrigation district to the patrons. These supplies are held in the Mackay Reservoir until called upon for release by the patrons. Depending upon the pledged and/or acquired supply quantities from this source and the expected timing for the need of released augmentation supplies, these storage water mitigation supply contributions could range from 0 to 6,110 ac-ft.

3.) Supplies from Natural Flow rights held by any water user within the water district may be pledged or acquired in a similar fashion as described above to the extent such water rights provide actual water supplies in their respective priorities. If any natural flow water right (in part or in it's entirety) is pledged or offered by a ground water user, an approved IDWR temporary transfer must accompany that pledge or offer prior to that supply actually being accepted and used for river augmentation. The use and exercise of any such water right will not be deemed to be a forfeiture or loss of priority when used for mitigation purposes. Normally the use of these water rights would be pledged or offered for the entire irrigation season. Natural flow water rights pledged or offered to the sponsoring entity would be valued based upon the actual quantity/volume of water made available under such rights. Some flexibility or exception to this practice may be required for reasons discussed in the release and timing portion of this plan. These supplies are natural flows and will be distributed and subject to the elements of those benefiting natural flow water rights.

Example: Quantities acquired from natural flow rights will vary from priority to priority and according to the rate of diversion in the particular right. It is anticipated that these supplies will need to be converted to acre-feet quantities as they flow naturally over time and/or are impounded into rotation credit. Their use in augmenting the natural flow will probably be among the first simply by virtue of their immediate presence in the river channel and because of the uncertainty of their availability. For these reasons the "willing buyer" of these supplies will need some flexibility when anticipating how much of this type of supply to actually accept and/or commit to acquisition.

4.) If the total mitigation burden supply of 6,110 ac-ft has not been satisfied from the above supply options, Ground Water supplies may be pledged or offered and accepted or acquired by the sponsoring entity at fair market prices and funded by assessment fees. Ground water supplies may be introduced directly into the river,

canals, or laterals. These introduced supplies will be deducted from other needed mitigation supplies being released to augment river flows at the constant release flow rate described below. In every instance, such supplies will be considered as an augmented natural flow supply and distributed and subject to the regulatory elements of those benefiting natural flow water rights. Water supplies diverted from any such mitigation well(s) will require approved temporary transfers from IDWR, the same as other potential mitigation supplies. Proponents of this consolidated plan reiterate the position of using ground water supplies as a supply of last resort, both for economic and social preference reasons. The use of these supplies will require some flexibility for reasons described below.

5.) Irrigated lands within Basin 34 may have an opportunity to be enrolled in CREP. At the time of this submission, the details of this program regarding water rights have not been fully determined and disseminated to the public. To the extent those water rights might have a use in some form or manner in an approved mitigation plan, the proponents of this plan reserve the right to incorporate those uses in this plan.

All pledges, offerings, acceptance, and acquisitions of mitigation supplies must be summarized in a supplemental plan [6] report to IDWR by the end of the first half of the irrigation season (July 23). This report will be compiled and submitted by the consolidated plan's sponsor.

Release and timing patterns of mitigation supplies will be as follows:
The release and timing patterns of these mitigation supplies will comply with Rule 50.04 as nearly as practicable. Some flexibility in release patterns will be needed to accommodate the actual conditions of river flow, responses to extemporaneous administrative actions, and for the utilization of all the various accepted and acquired mitigation supplies. The intent of this consolidated plan is to provide the entire 6,110 ac-ft of mitigation supplies as river augmentation during periods of the irrigation season when water rights having a 1905 or earlier priority are not satisfied. The following is an attempt to describe how that flexibility will be used for that stated purpose.

As described by Rule 50.04 one third of the required mitigation supply [7] (2,034 ac-ft) will be made available to the Watermaster for purposes of augmenting the natural flows of the Big Lost River during the first half of the irrigation season (May 1 through July 23, or 84 days) at a constant flow release rate. Water supplies [8] used to "flush" the river system at the commencement of the irrigation season as described in Rule 40.02.d.iii,g,h will be deducted from the 2,034 ac-ft. The residual balance of the mitigation supply would then be released at a constant release flow rate during the remaining days of the first half season period. If water rights with 1905 and earlier priorities are satisfied during any period of days within this first half of the irrigation season from natural river flows without the use of augmenting supplies, no mitigation supplies will be released for those days. The sum acre-feet of water not released during those days will then be "carried-over" and become part of the second half of the season's mitigation supply not to exceed a total of 4,067 ac-ft.

Two thirds of the required mitigation supply (4,067 ac-ft) will be made available to the Watermaster for the second half of the irrigation season (July 24 through October 15, or 84 days) for purposes of augmenting the natural flow of the Big Lost River at a constant flow release rate. If water rights with 1905 and earlier priorities are satisfied during any period of days within this second half of the irrigation season from natural river flows without the use of augmenting supplies, no mitigation supplies will be released for those days. Once water rights with 1905 or earlier priorities are unable to be satisfied by natural river flows, a calculation of remaining days in the irrigation season will be determined and/or the number of days remaining before the Director were to declare a futile river as described in Rule 20.04 would be determined. Using the fewer number of days from those two calculations, an augmenting constant release flow rate will then be established by dividing the fewer number of days into 4,067 ac-ft. If it becomes apparent a futile river declaration is likely to occur before the previously calculated date, all remaining mitigation supplies would be required to be released prior to the actual futile declaration. In every instance of releasing mitigation supplies for the purpose of augmenting river flows, care and flexibility must be exercised to provide for the entire utilization of the 4,067 ac-ft in an efficient and effective manner.

Water users within Water District 34 expect IDWR and the Watermaster to administer ground water rights in such

a manner that those individuals holding ground water rights that are described by partial decree to be conjunctively administered which are not participating in this consolidated plan or participating in another approved mitigation plan shall not be allowed to divert during the 2005 irrigation season. Water users within Water District 34 also expect IDWR and the Watermaster to properly administer and regulate all surface water rights as described in partial decree and rule.

Respectfully submitted,
Proponents of a single "Consolidated Basin-Wide Mitigation Plan for Basin 34 Water Users"

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[1] This mitigation plan is a consolidation of the Basin 34 Water Users Plan dated January 7, 2005 and the Participants Universal Mitigation Plan dated December 14, 2005. This consolidated plan is prepared under the direction of this group for the benefit of their respective members but with the objective of making the consolidated plan acceptable and accessible to all ground water users whose rights are conjunctively managed in the basin.

[2] Water users within Basin 34 understand the Director of IDWR is willing to accept a mitigation supply of 6,110 ac-ft for the 2005 irrigation season if such a supply were incorporated into a single basin-wide plan that is available for participation in by all ground water users in general. Water users also understand individual mitigation plan(s) may be proposed offering supplies of water based upon their actual 2002 through 2004 pumpage quantities. These individual mitigation supplies will be in addition to the 6,110 ac-ft proposed in this consolidated plan.

[3] IDWR administrators have prepared a preliminary summary of 2004 pumpage, dated 1/21/2005, from individual well records. This document, or a final version of this summary, will be used for determining individual's proportionate mitigation requirements.

[4] The current advisory board has a very limited role within the water district. Current members of the board may not want to serve on the committee if that role were expanded, and some water users feel the current board is imbalanced in representing water user's interests. Reconstituting the committee would be a prerequisite before adding any additional role or function to this board.

[5] During the years of 1995 to 1999 managed recharge in Basin 34 ranged from 33,766 ac-ft to 89,319 ac-ft as reported to IDWR during the permit stage of developing the two water rights.

[6] These supplemental plan report(s) would include any necessary information required by the Director of IDWR (i.e. current water right element description, proposed new use description, transfer of use application(s), expected quantity portions of the water right to be used for mitigation, etc.).

[7] This example assumes no managed aquifer charge has occurred during the current year. Obviously if managed recharge were conducted the recharge replacement credits would be subtracted from the 6,110 ac-ft and any remaining balance would then be divided as described.

[8] Whenever storage water or storage allocations, and whenever natural flows or rotation credits, or any combinations of these water supplies are used to "flush" the river system as described in Rule 40, the entire volume of water will be credited as a mitigation supply.

Basin 34 Water Users Mitigation Plan
21/2637/2005 2/7/05

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior groundwater users whose groundwater rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior groundwater users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet the requirements of ~~r~~Rule 50.04 by providing 6,110 ac-ft of water ~~to the Water Master~~ to augment the natural flow of the Big Lost River.

The Basin 34 Water Users (Water Users) understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from the Mackay Dam. Mitigation by augmenting flows in the Big Lost River does not guarantee any particular water right will receive a water supply in any year. Mitigation water is not required to be released when no water can be delivered ~~it would not (~~due to a futile call~~)~~ for delivery of water rights in the reach of the river where the water rights held by ~~to~~ the person calling for mitigation.are diverted.~~benefit a water user calling for mitigation~~

The Water Master of Water District 34 will administer and provide the accounting necessary to ensure that the total mitigation burden (6,110 ac-ft) will be satisfied~~satisfied~~ through this mitigation plan. All ground water users within district 34 may participate in this plan. Each groundwater user who chooses to be covered under this plan will pay a fee to Water District 34 to cover the administration of the mitigation. The total mitigation burden is defined as the total amount of water District 34 groundwater users are required to provide to the river for mitigation purposes (i.e 6,110 ac-ft). Additionally, the proportion of the total mitigation burden that each groundwater user is required to provide for mitigation is defined as the individual mitigation burden. This is based on the individual's proportion of the previous year's pumpage.

This will be done by collecting mitigation water in the following manner:

1. **Recharge** - Managed Aquifer Recharge supplies will be the first preferred option for providing mitigation to whatever extent such supplies are available. Recharge that is conducted by the Water District's recharge committee, in compliance with the plan of operation incorporated into and made part of water rights nos. 34-7571 and 34-7573, will be considered as replacement water supplies for quantities of pumped ground water. Recharge water will be credited to mitigation at a rate equivalent to the ~~calculated~~ depletion percentage stated in the water distribution rules (for – Water District 34) ~~from groundwater withdrawal or~~ or higher as may be determined~~indicated~~ by future studies. Additionally, future studies may indicate that recharge may be credited to mitigation for multiple years. When recharge supplies are of great enough quantities, the entire mitigation burden may be satisfied with such supplies.
2. **Inadvertent mitigation contributions** – ~~During the 2004 irrigation season, a malfunction at the Howell Gauge resulted in non-diversion of decreed rights for about~~

~~9 days when those rights actually should have been delivered. When this, or similar circumstances occur, the individual mitigation burden of groundwater users whose rights were affected will be credited. The remaining water, in excess of the amount needed by affected groundwater users for their individual mitigation~~by affected groundwater users, ~~will be credited toward the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users. Compensation will not be made for water contributed to the general mitigation burden in this manner. This will only be considered when the contribution is in excess of 500 ac-ft.~~

3. **CREP** – It is likely that some lands within the Big Lost River drainage will be placed in the CREP program. While the emphasis of that program appears to be to reduce groundwater withdrawal, some lands associated with decreed surface water may be enrolled. At the time of this submission, the details of this program regarding water rights have not been fully determined and disseminated to the public. However, if allowed by CREP, ~~When this occurs,~~ these un-diverted surface water rights will first be used to satisfy any individual mitigation burden required from the participant in the CREP program. Any additional un-diverted decreed surface water will be used to reduce the general mitigation burden (*i.e.* subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users). ~~No compensation to the decreed water right holder will occur for this contribution to the general mitigation burden.~~
4. **Donated water** – Irrigators in the Big Lost River drainage may elect to donate their water (storage, rotation credit, or decreed) to mitigation. When water is donated, it will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).~~to the Water Master~~ (as opposed to being donated to an individual to satisfy his individual mitigation burden). ~~that water will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).~~

Any water contributed through these avenues, outlined above, ~~-~~will be subtracted from the total mitigation burden and will reduce each individuals mitigation burden proportionately. ~~-~~Each ~~I~~individual groundwater users will be required to provide his portion the remainder of the total mitigation burden based on their ~~portion~~ the proportion of the ground water he pumped during the previous year to the total ground water pumped in Water District 34 during the ~~of~~ previous year~~'s pumpage~~.

Each groundwater user will be required to contact the Water Master and declare how he plans to satisfy his portion of the general mitigation burden prior to April 1st, of the coming irrigation season. Groundwater users may elect to designate water owned by them for mitigation or may purchase water from other individuals to be used for their mitigation. Additionally, the Water Master will acquire water from water right holders who wish to provide their decreed surface water, rotation credit water, or storage water to a purchase pool.

Any groundwater user, who wishes to purchase mitigation water from the purchase pool, to account for their individual mitigation burden~~for their own mitigation~~ as outlined above, will be able to buy purchase pool water acquired by the Water Master~~.~~.

Individual mitigation burdens within this mitigation plan (as opposed to individual mitigation plans) may be satisfied in the following ways: decreed water, storage water, rotation credit water, ground water (under certain criteria) or a combination of the above.

- Decreed (natural flow) water - Groundwater users will indicate to the Water Master which surface water rights will be used as mitigation and during approximately which time period so that the volume of water not diverted equals that individual's mitigation burden.

  -Unless the water is dedicated to mitigation for the entire irrigation season, groundwater users who choose to contribute natural flow to satisfy their individual mitigation burden or who offer natural flow water into the purchase pool, must demonstrate to the satisfaction of the Director of IDWR that they have forgone a beneficial use of that water.

  - Decreed water, designated for mitigation, that comes from tributaries of the Big Lost River may also be used for mitigation. Some tributaries may not come into direct contact with the river, but dump directly into canals or laterals. When mitigation water is delivered in this manner (to a canal or lateral), the Water Master will reduce diversion of Big Lost River water into that canal or lateral by the measured amount of mitigation water the tributary delivers to that canal or lateral. Thus, tributary water will mitigate the Big Lost River without physically being delivered there. Permissiion must be obtained from the owners of the canals or laterals to place water into the canal or lateral.

  - The decreed water upstream from Mackay Reservoir, designated for mitigation, will become natural flow in that portion of the river and will be deducted from the mitigation volume required for release at Mackay Dam.

- Storage water - Groundwater users will indicate which storage rights (owned or rented) and amounts will be used to satisfy their individual mitigation burden. The Water Master will convey this information to the Big Lost River Irrigation District so they can note the change in nature of use for that water and credit the appropriate water users' mitigation burden.
- Rotation credit water - Groundwater users will indicate which decreed rights will be rotated as stored water, and approximately when this rotation might occur.
- Groundwater – Groundwater may be used ~~by individuals for~~ for mitigation. ~~Use of this water is at the discretion of the Water Master.~~ However, the Water Master will only accept groundwater for mitigation purposes under the following conditions:
  - No other source of mitigation is available.
  - Water is directly injected into the river or a~~A~~ physical exchange of water can be made to the Big Lost River (this can only occur when the river is running past the canal in which water is being injected and the physical exchange must occur at the canal heading where the water is injected).

- The river, canal, or lateral is not dry.

~~□No other source of mitigation is available.~~

- The mitigation water can be put to beneficial use.
- Water from the well must be measured

Anyone who ~~elects to~~ uses groundwater to satisfy his individual mitigation burden ~~mitigate with groundwater~~, is responsible for their own expenditures (power costs etc.) associated with this form of mitigation.

- Combination - Any combination of water indicated above may be used to reach the individual mitigation burden required of any groundwater user.

Full mitigation by the groundwater user will be required before the water right(s) for that groundwater user is covered under this mitigation plan.

The Water Users understanding of the implementation of the mitigation through flow augmentation is as illustrated by the following example: The Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Water Master for mitigation purposes. Mitigation will only occur during the period May 1 through October 15th of the year and then only for water rights from the Big Lost River downstream from the Mackay Dam with priority dates of 1905 and earlier. Rule 50.04.c.i provides a block portion of the mitigation water will be available to augment natural flow for the first half of the augmentation period and the remaining block portion of the mitigation water will be available to augment natural flow for the second half of the augmented period.

Impounded water for mitigation is water accumulated in the Mackay Reservoir. This includes stored water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules.

River flush water as contemplated by Rule 40.02.d.iii will also be considered ~~recharge for~~ mitigation ~~purposes~~ and will be provided from the 6,110 ac-ft of impounded mitigation water. All river flush water will be considered ~~recharge~~ mitigation and will reduce the 6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Water Master as illustrated in the example above, except that all river flush water will be credited to mitigation and will be deducted from the first half of the mitigation period water supply requirement. This plan does not preclude individual groundwater users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6,110 ac-ft water for this plan will be reduced by the amount of mitigation water provided in all other ~~approved~~ mitigation plans combined which are approved by the beginning of the irrigation season~~combined~~.

The Water Users expect the Idaho Department of Water Resources (IDWR) and the Water Master to administer groundwater rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the irrigation season after a call for mitigation as been ~~is~~ placed, approved, the criteria for conjunctive management have been satisfied. ~~in the basin~~.

~~During the irrigation season, water is sometimes present at the Arco Gauge. This occurs for two reasons 1) natural flow exceeds irrigation demand or 2) ground water level rises above the river bottom. In either case mitigation will not occur when water is present at the Arco Gauge because, 1) either all water rights are being satisfied or 2) the groundwater pumps have, by definition, not impacted the underground water supply.~~

In order to call for mitigation, individuals must ~~1)~~ request mitigation before they call for their irrigation water (rotation into credit is considered a call for water). Additionally, any requests made after 1 July will be evaluated by the Watermaster, in consultation with the Idaho Department of Water Resources, to determine whether the water right being called for could be filled by augmenting the river.
~~, 2) have a water right that is on during some portion of the irrigation season, and 3) participate in a mitigation seminar. This seminar will be conducted by the Watermaster and will outline how mitigation water is accumulated, administered, and the benefit individuals calling for mitigation may expect.~~

~~Mitigation will not be required in years when the Mackay Dam fills.~~

If mitigation is called for prior to the irrigation season, then the water users will also request an early start of the irrigation season ~~will also be called.~~

We reserve the right to modify this plan. However, no modification can take place during the irrigation season.

Any groundwater user who chooses to be covered under this plan after 1 April will be required to mitigate with money (by purchasing water from the Watermasters purchase pool) and will be charged a late fee of an additional $200 or 15%, whichever is greater. That money will be used to buy mitigation water in the following year and will be applied to the general mitigation burden.

Basin 34 Water Users Mitigation Plan
21/263/2005

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~~9 days when those rights actually should have been delivered. When this, or similar circumstances occur, the individual mitigation burden of groundwater users whose rights were affected will be credited. The remaining water, in excess of the amount needed by affected groundwater users for their individual mitigation~~by affected groundwater users, ~~will be credited toward the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users. Compensation will not be made for water contributed to the general mitigation burden in this manner. This will only be considered when the contribution is in excess of 500 ac-ft.~~

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4. **Donated water** – Irrigators in the Big Lost River drainage may elect to donate their water (storage, rotation credit, or decreed) to mitigation. When water is donated, it will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).~~to the Water Master~~ (as opposed to being donated to an individual to satisfy his individual mitigation burden). ~~that water will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).~~

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Each groundwater user will be required to contact the Water Master and declare how he plans to satisfy his portion of the general mitigation burden prior to April 1st, of the coming irrigation season. Groundwater users may elect to designate water owned by them for mitigation or may purchase water from other individuals to be used for their mitigation. Additionally, the Water Master will acquire water from water right holders who wish to provide their decreed surface water, rotation credit water, or storage water to a purchase pool.

Any groundwater user, who wishes to purchase mitigation water from the purchase pool, to account for their individual mitigation burden~~for their own mitigation~~ as outlined above, will be able to buy purchase pool water acquired by the Water Master~~.~~.

Individual mitigation burdens within this mitigation plan (as opposed to individual mitigation plans) may be satisfied in the following ways: decreed water, storage water, rotation credit water, ground water (under certain criteria) or a combination of the above.

- Decreed (natural flow) water - Groundwater users will indicate to the Water Master which surface water rights will be used as mitigation and during approximately which time period so that the volume of water not diverted equals that individual's mitigation burden.

  -Unless the water is dedicated to mitigation for the entire irrigation season, groundwater users who choose to contribute natural flow to satisfy their individual mitigation burden or who offer natural flow water into the purchase pool, must demonstrate to the satisfaction of the Director of IDWR that they have forgone a beneficial use of that water.

  - Decreed water, designated for mitigation, that comes from tributaries of the Big Lost River may also be used for mitigation. Some tributaries may not come into direct contact with the river, but dump directly into canals or laterals. When mitigation water is delivered in this manner (to a canal or lateral), the Water Master will reduce diversion of Big Lost River water into that canal or lateral by the measured amount of mitigation water the tributary delivers to that canal or lateral. Thus, tributary water will mitigate the Big Lost River without physically being delivered there. Permissiion must be obtained from the owners of the canals or laterals to place water into the canal or lateral.

  - The decreed water upstream from Mackay Reservoir, designated for mitigation, will become natural flow in that portion of the river and will be deducted from the mitigation volume required for release at Mackay Dam.

- Storage water - Groundwater users will indicate which storage rights (owned or rented) and amounts will be used to satisfy their individual mitigation burden. The Water Master will convey this information to the Big Lost River Irrigation District so they can note the change in nature of use for that water and credit the appropriate water users' mitigation burden.
- Rotation credit water - Groundwater users will indicate which decreed rights will be rotated as stored water, and approximately when this rotation might occur.
- Groundwater – Groundwater may be used ~~by individuals for~~ for mitigation. ~~Use of this water is at the discretion of the Water Master.~~ However, the Water Master will only accept groundwater for mitigation purposes under the following conditions:
  - No other source of mitigation is available.
  - Water is directly injected into the river or a~~A~~ physical exchange of water can be made to the Big Lost River (this can only occur when the river is running past the canal in which water is being injected and the physical exchange must occur at the canal heading where the water is injected).

- The river, canal, or lateral is not dry.
- ~~No other source of mitigation is available.~~
- The mitigation water can be put to beneficial use.
- Water from the well must be measured

Anyone who ~~elects to~~ uses groundwater to satisfy his individual mitigation burden ~~mitigate with groundwater~~, is responsible for their own expenditures (power costs etc.) associated with this form of mitigation.

- Combination - Any combination of water indicated above may be used to reach the individual mitigation burden required of any groundwater user.

Full mitigation by the groundwater user will be required before the water right(s) for that groundwater user is covered under this mitigation plan.

The Water Users understanding of the implementation of the mitigation through flow augmentation is as illustrated by the following example: The Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Water Master for mitigation purposes. Mitigation will only occur during the period May 1 through October 15th of the year and then only for water rights from the Big Lost River downstream from the Mackay Dam with priority dates of 1905 and earlier. Rule 50.04.c.i provides a block portion of the mitigation water will be available to augment natural flow for the first half of the augmentation period and the remaining block portion of the mitigation water will be available to augment natural flow for the second half of the augmented period.

Impounded water for mitigation is water accumulated in the Mackay Reservoir. This includes stored water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules.

River flush water as contemplated by Rule 40.02.d.iii will also be considered ~~recharge for~~ mitigation ~~purposes~~ and will be provided from the 6,110 ac-ft of impounded mitigation water. All river flush water will be considered ~~recharge~~ mitigation and will reduce the 6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Water Master as illustrated in the example above, except that all river flush water will be credited to mitigation and will be deducted from the first half of the mitigation period water supply requirement. This plan does not preclude individual groundwater users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6,110 ac-ft water for this plan will be reduced by the amount of mitigation water provided in all other ~~approved~~ mitigation plans combined which are approved by the beginning of the irrigation season~~combined~~.

The Water Users expect the Idaho Department of Water Resources (IDWR) and the Water Master to administer groundwater rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the irrigation season after a call for mitigation as been ~~is~~ placed, approved, the criteria for conjunctive management have been satisfied. ~~in the basin~~.

~~During the irrigation season, water is sometimes present at the Arco Gauge. This occurs for two reasons 1) natural flow exceeds irrigation demand or 2) ground water level rises above the river bottom. In either case mitigation will not occur when water is present at the Arco Gauge because, 1) either all water rights are being satisfied or 2) the groundwater pumps have, by definition, not impacted the underground water supply.~~

In order to call for mitigation, individuals must ~~1)~~ request mitigation before they call for their irrigation water (rotation into credit is considered a call for water). Additionally, any requests made after 1 July will be evaluated by the Watermaster, in consultation with the Idaho Department of Water Resources, to determine whether the water right being called for could be filled by augmenting the river.
~~, 2) have a water right that is on during some portion of the irrigation season, and 3) participate in a mitigation seminar. This seminar will be conducted by the Watermaster and will outline how mitigation water is accumulated, administered, and the benefit individuals calling for mitigation may expect.~~

~~Mitigation will not be required in years when the Mackay Dam fills.~~

If mitigation is called for prior to the irrigation season, then the water users will also request an early start of the irrigation season ~~will also be called.~~

We reserve the right to modify this plan. However, no modification can take place during the irrigation season.

Any groundwater user who chooses to be covered under this plan after 1 April will be required to mitigate with money (by purchasing water from the Watermasters purchase pool) and will be charged a late fee of an additional $200 or 15%, whichever is greater. That money will be used to buy mitigation water in the following year and will be applied to the general mitigation burden.

Basin 34 Water Users Mitigation Plan
2/3/2005

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior groundwater users whose groundwater rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior groundwater users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet the requirements of Rule 50.04 by providing 6,110 ac-ft of water to augment the natural flow of the Big Lost River.

The Basin 34 Water Users (Water Users) understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from the Mackay Dam. Mitigation by augmenting flows in the Big Lost River does not guarantee any particular water right will receive a water supply in any year. Mitigation water is not required to be released when no water can be delivered due to a futile call for delivery of water rights in the reach of the river where the water rights held by the person calling for mitigation are diverted.
The Water Master of Water District 34 will administer and provide the accounting necessary to ensure that the total mitigation burden (6,110 ac-ft) will be satisfied through this mitigation plan. All ground water users within district 34 may participate in this plan. Each groundwater user who chooses to be covered under this plan will pay a fee to Water District 34 to cover the administration of the mitigation. The total mitigation burden is defined as the total amount of water District 34 groundwater users are required to provide to the river for mitigation purposes (i.e 6,110 ac-ft). Additionally, the proportion of the total mitigation burden that each groundwater user is required to provide for mitigation is defined as the individual mitigation burden. This is based on the individual's proportion of the previous year's pumpage.

This will be done by collecting mitigation water in the following manner:

1. Recharge - Managed Aquifer Recharge supplies will be the first preferred option for providing mitigation to whatever extent such supplies are available. Recharge that is conducted by the Water District's recharge committee, in compliance with the plan of operation incorporated into and made part of water rights nos. 34-7571 and 34-7573, will be considered as replacement water supplies for quantities of pumped ground water. Recharge water will be credited to mitigation at a rate equivalent to the depletion percentage stated in the water distribution rules (for - Water District 34) or higher as may be determined by future studies. Additionally, future studies may indicate that recharge may be credited to mitigation for multiple years. When recharge supplies are of great enough quantities, the entire mitigation burden may be satisfied with such supplies.
2. CREP - It is likely that some lands within the Big Lost River drainage will be placed in the CREP program. While the emphasis of that program appears to be to reduce groundwater withdrawal, some lands associated with decreed surface water may be enrolled. At the time of this submission, the details of this program regarding water rights have not been fully determined and disseminated to the public. However, if allowed by CREP, these un-diverted surface water rights will first be used to satisfy any individual mitigation burden required from the participant in the CREP program. Any additional un-diverted decreed surface water will be used to reduce the general mitigation burden *(i.e.* subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).

3. **Donated water** -Irrigators in the Big Lost River drainage may elect to donate their water (storage, rotation credit, or decreed) to mitigation. When water is donated, it will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).(as opposed to being donated to an individual to satisfy his individual mitigation burden).

Any water contributed through these avenues, outlined above, will be subtracted from the total mitigation burden and will reduce each individuals mitigation burden proportionately. Each individual groundwater user will be required to provide his portion the remainder of the total mitigation burden based on their the proportion of the ground water he pumped during the previous year to the total ground water pumped in Water District 34 during the previous year.

Each groundwater user will be required to contact the Water Master and declare how he plans to satisfy his portion of the general mitigation burden prior to April I st, of the coming irrigation season. Groundwater users may elect to designate water owned by them for mitigation or may purchase water from other individuals to be used for their mitigation. Additionally, the Water Master will acquire water from water right holders who wish to provide their decreed surface water, rotation credit water, or storage water to a purchase pool.

Any groundwater user, who wishes to purchase mitigation water from the purchase pool, to account for their individual mitigation burden as outlined above, will be able to buy purchase pool water acquired by the Water Master.

4)

5)

Individual mitigation burdens within this mitigation plan (as opposed to individual mitigation plans) may be satisfied in the following ways: decreed water, storage water, rotation credit water, ground water (under certain criteria) or a combination of the above.

. Decreed (natural flow) water - Groundwater users will indicate to the Water Master which surface water rights will be used as mitigation and during approximately which time period so that the volume of water not diverted equals that individual's mitigation burden.

-Unless the water is dedicated to mitigation for the entire irrigation season, groundwater users who choose to contribute natural flow to satisfy their individual mitigation burden or who offer natural flow water into the purchase pool, must demonstrate to the satisfaction of the Director of IDWR that they have forgone a beneficial use of that water.

- Decreed water, designated for mitigation, that comes from tributaries of the Big Lost River may also be used for mitigation. Some tributaries may not come into direct contact with the river, but dump directly into canals or laterals. When mitigation water is delivered in this manner (to a canal or lateral), the Water Master will reduce diversion of Big Lost River water into that canal or lateral by the measured amount of mitigation water the tributary delivers to that canal or lateral. Thus, tributary water will mitigate the Big Lost River without physically being delivered there. Permission must be obtained from the owners of the canals or laterals to place water into the canal or lateral.

- The decreed water upstream from Mackay Reservoir, designated for mitigation, will become natural flow in that portion of the river and will be deducted from the mitigation volume required for release at Mackay Dam.

. Storage water - Groundwater users will indicate which storage rights (owned or rented) and amounts will be used to satisfy their individual mitigation burden. The Water Master will convey this information to the Big Lost River Irrigation District

so they can note the change in nature of use for that water and credit the appropriate water users' mitigation burden.

- Rotation credit water - Groundwater users will indicate which decreed rights will be rotated as stored water, and approximately when this rotation might occur.
- Groundwater - Groundwater may be used for mitigation. However, the Water Master will only accept groundwater for mitigation purposes under the following conditions:
  - No other source of mitigation is available.
  - Water is directly injected into the river or a physical exchange of water can be made to the Big Lost River (this can only occur when the river is running past the canal in which water is being injected and the physical exchange must occur at the canal heading where the water is injected).
  - The river, canal, or lateral is not dry.
  - The mitigation water can be put to beneficial use.
  - Water from the well must be measured

- Anyone who uses groundwater to satisfy his individual mitigation burden, is responsible for their own expenditures (power costs etc.) associated with this form of mitigation.

- Combination - Any combination of water indicated above may be used to reach the individual mitigation burden required of any groundwater user.

Full mitigation by the groundwater user will be required before the water right(s) for that groundwater user is covered under this mitigation plan.

The Water Users understanding of the implementation of the mitigation through flow augmentation is as illustrated by the following example: The Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Water Master for mitigation purposes. Mitigation will only occur during the period May I through October 15th of the year and then only for water rights from the Big Lost River downstream from the Mackay Dam with priority dates of1905 and earlier. Rule 50.04.c.i provides a block portion of the mitigation water will be available to augment natural flow for the first half of the augmentation period and the remaining block portion of the mitigation water will be available to augment natural flow for the second half of the augmented period.

Impounded water for mitigation is water accumulated in the Mackay Reservoir. This includes stored water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules.

River flush water as contemplated by Rule 40.02.d.iii will also be considered mitigation and will be provided from the 6,110 ac-ft of impounded mitigation water. All river flush water will be considered mitigation and will reduce the 6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Water Master as illustrated in the example above, except that all river flush water will be credited to mitigation and will be deducted from the first half of

the mitigation period water supply requirement. This plan does not preclude individual groundwater users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6, II 0 ac-ft water for this plan will be reduced by the amount of mitigation water provided in all other mitigation plans combined which are approved by the beginning of the irrigation season.

The Water Users expect the Idaho Department of Water Resources (IDWR) and the Water Master to administer groundwater rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the irrigation season after a call for mitigation as been placed, approved, the criteria for conjunctive management have been satisfied..

In order to call for mitigation, individuals must request mitigation before they call for their irrigation water (rotation into credit is considered a call for water). Additionally, any requests made after I July will be evaluated by the Watermaster, in consultation with the Idaho Department of Water Resources, to determine whether the water right being called for could be filled by augmenting the river.

If mitigation is called for prior to the irrigation season, then the water users will also request an early start of the irrigation season
We reserve the right to modify this plan. However, no modification can take place during the irrigation season.

Any groundwater user who chooses to be covered under this plan after I April will be required to mitigate with money (by purchasing water from the Watermasters purchase pool) and will be charged a late fee of an additional $200 or 15%, whichever is greater. That money will be used to buy mitigation water in the following year and will be applied to the general mitigation burden.

Controlled by Director/watermaster

Basin 34 Water Users Mitigation Plan
1/26/2005

director

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior groundwater users whose groundwater rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior groundwater users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet the requirements of rule 50.04 by providing 6,110 ac-ft of water to the Water Master to augment the natural flow of the Big Lost River.

This mitigation plan supervises the activities of the watermaster.

recognizes that the Id Dept. of Water Resources

vague

The Basin 34 Water Users (Water Users) understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from the Mackay Dam. Mitigation does not guarantee any particular water right will receive a water supply in any year. Mitigation water is not required to be released when it would not benefit a water user calling for mitigation.

water

The Water Master of District 34 will administer and provide the accounting necessary to ensure that the total mitigation burden (6,110 ac-ft) will be satisfied through this mitigation plan. All ground water users within district 34 may participate in this plan.

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This will be done by collecting mitigation water in the following manner:

1. **Recharge** - Managed Aquifer Recharge supplies will be the first preferred option for providing mitigation to whatever extent such supplies are available. Recharge that is conducted by the Water District's recharge committee, in compliance with the plan of operation incorporated into and made part of water rights nos. 34-7571 and 34-7573, will be considered as replacement water supplies for quantities of pumped ground water. Recharge water will be credited to mitigation at a rate equivalent to the depletion percentage stated in the water distribution rules (for - Water District 34) or higher as may be determined by future studies. Additionally, future studies may indicate that recharge may be credited to mitigation for multiple years. When recharge supplies are of great enough quantities, the entire mitigation burden may be satisfied with such supplies.
2. **Inadvertent mitigation contributions** – During the 2004 irrigation season, a malfunction at the Howell Gauge resulted in non-diversion of decreed rights for about 9 days when those rights actually should have been delivered. When this, or similar circumstances occur, the individual mitigation burden of groundwater users whose rights were affected will be credited. The remaining water, in excess of the amount needed by affected groundwater users for their individual mitigation, will be credited toward the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users. Compensation will not be made for water contributed to the general mitigation burden in this manner. This will only be considered when the contribution is in excess of 500 ac-ft.

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3. **CREP** – It is likely that some lands within the Big Lost River drainage will be placed in the CREP program. While the emphasis of that program appears to be to reduce groundwater withdrawal, some lands associated with decreed surface water may be enrolled. When this occurs, these un-diverted surface water rights will first be used to satisfy any individual mitigation burden required from the participant in the CREP program. Any additional un-diverted decreed surface water will be used to reduce the general mitigation burden (*i.e.* subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users). No compensation to the decreed water right holder will occur for this contribution to the general mitigation burden.
4. **Donated water** – Irrigators in the Big Lost River drainage may elect to donate their water (storage, rotation credit, or decreed) to mitigation. When water is donated to the Water Master (as opposed to being donated to an individual to satisfy his individual mitigation burden) that water will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).

use language from 05 AMP

Any water contributed through these avenues, outlined above, will be subtracted from the total mitigation burden and will reduce each individuals mitigation burden proportionately. Individual groundwater users will be required to provide the remainder of the total mitigation burden based on their portion of previous year's pumpage.

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Each groundwater user will be required to contact the Water Master and declare how he plans to satisfy his portion of the general mitigation burden prior to April 1st, of the coming irrigation season. Groundwater users may elect to designate water owned by them for mitigation or may purchase water from other individuals to be used for their mitigation. Additionally, the Water Master will acquire water from water right holders who wish to provide their decreed surface water, rotation credit water, or storage water to a purchase pool.

Any groundwater user who wishes to purchase mitigation water from the purchase pool for their own mitigation as outlined above, will be able to buy purchase pool water acquired by the Water Master.

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Individual mitigation burdens within this mitigation plan (as opposed to individual mitigation plans) may be satisfied in the following ways: decreed water, storage water, rotation credit water, ground water (under certain criteria) or a combination of the above.

- Decreed (natural flow) water - Groundwater users will indicate to the Water Master which surface water rights will be used as mitigation and during approximately which time period so that the volume of water not diverted equals that individual's mitigation burden.

  Unless the water is dedicated to mitigation for the entire irrigation season, groundwater users who choose to mitigate with decreed water must demonstrate that they have forgone a beneficial use of that water.

  - Decreed water, designated for mitigation, that comes from tributaries of the Big Lost River may also be used for mitigation. Some tributaries may not

contribute natural flow to satisfy their individual mitigation burden or offering natural flow water into the purchase pool

come into direct contact with the river, but dump directly into canals or laterals. When mitigation water is delivered in this manner (to a canal or lateral), the Water Master will reduce diversion of Big Lost River water into that canal or lateral by the measured amount of mitigation water the tributary delivers to that canal or lateral. Thus, tributary water will mitigate the Big Lost River without physically being delivered there.

- The decreed water upstream from Mackay Reservoir, designated for mitigation, will become natural flow in that portion of the river and will be deducted from the mitigation volume required for release at Mackay Dam.

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- Rotation credit water - Groundwater users will indicate which decreed rights will be rotated as stored water, and approximately when this rotation might occur.
- Groundwater – Groundwater may be used by, for mitigation. Use of this water is at the discretion of the Water Master. However, the Water Master will only accept groundwater for mitigation purposes under the following conditions:
  - No other source of mitigation is available.
  - Water is directly injected into the river or a physical exchange of water can be made to the Big Lost River (this can only occur when the river is running past the canal in which water is being injected and the physical exchange must occur at the canal heading where the water is injected).
  - The river, canal, or lateral is not dry.
  - The mitigation water can be put to beneficial use.
  - Water from the well must be measured

  Anyone who uses groundwater to satisfy his individual mitigation burden, is responsible for their own expenditures (power costs etc.) associated with this form of mitigation.

- Combination - Any combination of water indicated above may be used to reach the individual mitigation burden required of any groundwater user.

Full mitigation by the groundwater user will be required before the water right(s) for that groundwater user is covered under this mitigation plan.

The Water Users understanding of the implementation of the mitigation through flow augmentation is as illustrated by the following example: The Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Water Master for mitigation purposes. Mitigation will only occur during the period May 1 through October 15th of the year and then only for water rights from the Big Lost River downstream from the Mackay Dam with priority dates of 1905 and earlier. Rule 50.04.c.i provides a block portion of the mitigation water will be available to

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augment natural flow for the first half of the augmentation period and the remaining block portion of the mitigation water will be available to augment natural flow for the second half of the augmented period.

Impounded water for mitigation is water accumulated in the Mackay Reservoir. This includes stored water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules.

River flush water as contemplated by Rule 40.02.d.iii will also be considered mitigation and will be provided from the 6,110 ac-ft of impounded mitigation water. All river flush water will be considered mitigation and will reduce the 6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

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The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Water Master as illustrated in the example above, except that all river flush water will be credited to mitigation and will be deducted from the first half of the mitigation period water supply requirement. This plan does not preclude individual groundwater users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6,110 ac-ft water for this plan will be reduced by the amount of mitigation water provided in all other mitigation plans combined which are approved by the beginning of the irrigation season.

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The Water Users expect the Idaho Department of Water Resources (IDWR) and the Water Master to administer groundwater rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the irrigation season after a call for mitigation as been placed. approved, the criteria for conjunctive management have been satisfied.

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During the irrigation season, water is sometimes present at the Arco Gauge. This occurs for two reasons 1) natural flow exceeds irrigation demand or 2) ground water level rises above the river bottom. In either case mitigation will not occur when water is present at the Arco Gauge because, 1) either all water rights are being satisfied or 2) the groundwater pumps have, by definition, not impacted the underground water supply.

In order to call for mitigation, individuals must 1) request mitigation before they call for their irrigation water (rotation into credit is considered a call for water), 2) have a water right that is on during some portion of the irrigation season, and 3) participate in a mitigation seminar. This seminar will be conducted by the Watermaster and will outline how mitigation water is accumulated, administered, and the benefit individuals calling for mitigation may expect.

Mitigation will not be required in years when the Mackay Dam fills.

If mitigation is called for, then an early start of the irrigation season will also be called.

We reserve the right to modify this plan. However, no modification can take place during the irrigation season.

Any groundwater user who chooses to be covered under this plan after 1 April will be required to mitigate with money (by purchasing water from the Watermasters purchase pool) and will be charged a late fee of an additional 10%.

D R A F T

BASIN 34 PLAN
for
MITIGATION OF SENIOR SURFACE WATER USERS
by
JUNIOR GROUND WATER USERS

February 23, 1993 - 9:54pm

General Statement of Purpose and Concept

To prevent or mitigate injury to senior surface water users in Basin 34 who would otherwise be injured by ground water withdrawals without curtailing ground water diversions.

Principles

Ground water users, other than small domestic and stock water users, in Basin 34 upgradient from the "A" line will be regulated by priority along with surface water users in the Basin unless the ground water users participate in a mitigation plan approved by the Director.

This plan discusses mitigation through water only. Other options for mitigation may be presented to the Director for his consideration.

Mitigation water provided by ground water users will be used solely to augment the natural flow of the Big Lost River downstream from Mackay Dam. No mitigation will occur prior to May 1 of any year.

The amount of mitigation water to be provided by the ground water users will be determined on an annual basis. The equation developed by Gary Johnson, et al, 1991, determining depletion as a function of pumpage was used as the basis for determining the amount of mitigation required for a ground water pumper. The equation developed by Johnson, et al, is:

$$DEPLETION = 0.575 \times PUMPAGE - 14{,}000$$

where

DEPLETION = annual depletion of diversions below Mackay Dam in acre-feet.

PUMPAGE = annual pumpage within the entire basin, in acre-feet.

Even though these terms are defined on an annual basis there derivation was based upon diversions and pumpage during the irrigation season and it can be assumed, because of the minor nature of any diversion outside of the irrigation season, that this relationship is applicable for irrigation season diversions.

The DEPLETION identified above is the total depletion from all sources, not just ground water pumpage. The equation was modified to isolate the DEPLETION caused by ground water

below Mackay Dam are not being filled by available natural flow and ends with the end of the irrigation season or when natural flow increases sufficiently to fill all 1905 Big Lost River rights below Mackay Dam. The rate of augmentation will be such that one-third of the remaining mitigation supply will be used in the first one-half of the time remaining in the irrigation season and the remaining two-thirds of the mitigation supply will be used in the final one-half of the remaining irrigation season.

Procedures

The purpose of these Procedures is to describe how the watermaster will regulate ground water uses in Basin 34. Since regulation by priority alone would mean curtailment of nearly all ground water uses these procedures describe how the watermaster will implement regulation including augmentation of the natural flow to allow ground water users who have selected mitigation rather than curtailment to continue to exercise their ground water rights.

Throughout these Procedures the terms mitigation and augmentation will be used. Mitigation is the action or actions taken by ground water users to protect senior surface water rights. For example, making water available from the ground water user to replace surface water depleted by ground water pumping is mitigation. Augmentation, on the other hand, is utilization of the water supplied for mitigation to replace the diminished natural flow. The watermaster augments the natural flow with water provided by a ground water pumper. For practical purposes, the two terms can probably be interchanged but in these Procedures and attempt has been to treat them differently if for not other reason than to help clarify what is being discussed in these Procedures.

The watermaster's duties include regulation of ground water users in Basin 34 except for small domestic and small stockwater ground water uses. For the remainder of these Procedures the duties of the watermaster relative to ground water will be assumed to be wells other than small domestic and small stockwater uses unless specifically described otherwise.

Ground water uses will be regulated by priority with surface water uses from the main stem of the Big Lost River below Mackay Dam. Ground water uses will be considered to be "on regulation" when the natural flow of the Big Lost River below Mackay Dam is not sufficient to fill all 1905 and earlier water rights that are currently being requested by the water user to be delivered by the watermaster (called for).

Ground water users, or groups of ground water users, who have chosen to mitigate senior surface water users in order to continue using ground water throughout the irrigation season must have a mitigation plan approved by the Director of IDWR or they must have subscribed to a mitigation plan already approved by the Director by April 30 of each year. For 1993 mitigation in the form of water must be 13% of the estimated pumpage by the ground water user while

season. May 1, or as soon thereafter as ground water users go on regulation, will be the day augmentation is to begin. From Table 1, the days remaining in the irrigation season will be selected opposite the day augmentation is to begin. The length of the "first half" of the augmentation period will then be calculated as:

$$FIRST\ HALF = \frac{DAYS\ REMAINING}{2}$$

The augmentation rate in cubic feet per second or "Rate" at which the natural flow will be augmented during the first half of the season is calculated as:

$$RATE_1 = \frac{AMOUNT}{5.95 x FIRST\ HALF}$$

Where $RATE_1$ = the rate of augmentation, in cfs, for the first half of the augmentation period.

An example will be used to show how these calculations may be made. Assume, for purposes of the example that augmentation begins on May 1 because the natural flow of the Big Lost River below Mackay is not enough to fill all 1905 and earlier water rights being called for. Also, for purposes of this example, assume the watermaster has accepted 6,000 acre-feet of water supply from ground water users to be used to augment natural flows. From Table 1, opposite May 1 the days remaining is found to be 168. The length of the first half is then calculated as:

$$FIRST\ HALF = \frac{168}{2} = 84\ days$$

Now the rate at which the augmentation water will be used in the first half is calculated as:

$$RATE_1 = \frac{6{,}000}{5.95 x 84} = 12\ CFS$$

This would be the flow rate, 12 cfs or 600 inches at which the watermaster will begin augmenting the natural flow of the Big Lost River below Mackay Dam.

To begin augmentation, the watermaster should look first to the water supply that can be provided by natural flow rights that have been offered as mitigation water. The watermaster

$$DAYS = \frac{TOTAL\ MITIGATION\ REQUIREMENT}{AMOUNT\ PRODUCED\ PER\ DAY} = \frac{72.8}{6.5} = 11.2\ days$$

to be used at 8.70 cfs to meet user B's mitigation requirement. Using the same computations shows user B's mitigation requirement would be satisfied in 16.9 days at 8.7 cfs.

After 11.2 days, when user C has satisfied the 72.8 acre-feet mitigation requirement, the watermaster must adjust the augmentation for the river. User C would now have the use of the 3.30 cfs, 1886 water right for as long as the augmented natural flow was sufficient to fill that water right. The watermaster would check to determine if user D's 1888 water right was good. If so, user D would be told by the watermaster the 2.40 cfs would not be available for user D's use and the watermaster would use that right in the same fashion as user C's right had been used earlier. The use of user B's right would need to be adjusted, however, since user D's right is only 2.40 cfs, the use of user B's right for mitigation would be increased from 8.70 cfs to 9.60 cfs (12 - 2.40 = 9.60). The watermaster would adjust the computations for user B with the change in use of user B's right to be sure user B's mitigation requirement of 291.2 acre-feet was not exceeded. To do this the watermaster would first compute the amount of water provided at 8.70 cfs for 11.2 days from user B's water right.

$$ACRE\text{-}FEET = 8.70 \times 11.2 \times 1.98 = 192.9\ acre\text{-}feet$$

The remaining 98.3 acre-feet (291.2 - 192.9 = 98.3) would now be satisfied at 9.60 cfs rather than the earlier 8.70 cfs. Using computations similar to those above 9.60 cfs produces 19 acre-feet per day and would require 5.2 additional days to satisfy user B's mitigation requirement. If, however, after user C's mitigation amount was satisfied and user D's right was still not on the watermaster would take the entire 12 cfs of required augmentation from user B. The computations to determine user B's remaining obligation of 98.3 acre-feet after 11.2 days would be the same as above. This 98.3 acre-feet would now be satisfied at the rate of 12 cfs or 23.8 acre-feet per day. At 23.8 acre-feet per day user B's remaining obligation would be satisfied in an additional 4.1 days.

This method of flow augmentation would continue through the list of natural flow water rights accepted by the watermaster as water supply for augmentation. User A's water right in the above example would be used in due course by the watermaster as junior rights were used to fill mitigation requirements and the watermaster moved to more senior rights for augmentation. In this example, if the watermaster expected user D's right might not be good at any time during a year, the watermaster would have required user D to supply an alternative source of water. The water user would have given instructions to the watermaster to use the natural flow right if possible but if the right was never on, or not on for long enough while

provide an alternate or supplemental water supply.

If new water is received the watermaster will calculate a new augmentation rate, using the formula for Rate above, by substituting the new Amount of water offered but leaving the remainder of the values the same. In the example above 6,000 acre-feet had been offered for augmentation and this resulted in an augmentation flow rate of 12 cfs. If, on May 6 the watermaster received and additional 300 acre-feet as a result of a ground water user whose initial water supply had not been acceptable making an acceptable water supply available to the watermaster, the water master would recalculate the augmentation rate using 6,300 acre-feet. Using the formula above the rate of augmentation would be increased to 12.60 cfs on May 7. These changes should be an infrequent event but will be dealt with in this way when they do occur.

The watermaster will need to adjust the augmentation rate such that the final two-thirds of the water provided for augmentation will be used in the last half of the irrigation season.

Using the example from above, assume the natural flow never reaches a point the 1905 and earlier water rights are satisfied so augmentation continues at 12.6 cfs from May 7 through July 23, the 84th day of the irrigation season, the end of the first half. The watermaster will have kept an accounting of the volume of mitigation water used for augmentation. In the example, if augmentation had been made as planned, 2,100 acre-feet of water, one-third of the original 6,300 acre-feet, would have been used for augmentation. The actual remaining augmentation water is calculated to be 4,211 acre-feet (6,300 - [1.98x6x12 + 1.98x78x12.6] = 4,211) (this value can more precisely be determined from the watermaster's accounting records) and the Rate at which augmentation must occur to utilize this amount of water in the remaining half of the season is calculated by:

$$RATE_2 = \frac{REMAINING\ VOLUME\ OF\ WATER}{1.98 x REMAINING\ DAYS\ OF\ SEASON}$$

Where $RATE_2$ = the rate of augmentation, in cfs, for the second half of the augmentation period.

For this example, the flow rate calculated is:

$$RATE_2 = \frac{4{,}211}{1.98x84} = 25.32\ cfs$$

Augmentation at this rate would continue until the end of the irrigation season or until the

after May 6 and no additional changes were made until July 1. Assume the revised estimates of ground water usage changed the amount of mitigation water available for the year to 6,500 acre-feet. The computation of augmentation rate would then be revised on July 2 as follows:

$$RATE_1 = \frac{6{,}500}{5.95 x 84} = 13.01 \ cfs$$

The computation of the augmentation rate for the second half would need to take into account three different augmentation rates starting with 12 cfs, increasing to 12.6 cfs on May 7 and increasing again to 13.01 cfs on July 2. The total volume of water used for augmentation in the first half is 2106 acre-feet ([12 x 1.98 x 6] + [12.6 x 1.98 x 56] + [13.01 x 1.98 x 22]). The amount of mitigation water remaining for the second half of the season is then 4,394 acre-feet (6,500 - 2106) which provides an augmentation rate determined as:

$$RATE_2 = \frac{4{,}394}{1.98 x 84} = 26.42 \ cfs$$

In all of these procedures thus far the assumption has been made the natural flow, without augmentation, was never sufficient to fill all the 1905 and senior water rights. There will occur situations, however, when the natural flow will fill all the 1905 and senior water rights and no augmentation will be required for a period of time. There are two circumstances that will be addressed when all 1905 and senior water rights are being filled.

For the first circumstance, assume on May 1 the natural flow is sufficient to fill all 1905 and senior water rights. No augmentation would be required and the watermaster would deliver water according to the rights of the water users requesting water. For purposes of discussion assume the natural flow remained sufficient to fill all 1905 and earlier water rights until June 8. At this time augmentation would begin based upon the remaining days in the irrigation season. The first step for the watermaster is to determine the remaining days in the irrigation season. From Table 1 opposite June 8 under days remaining is 130 days remaining. Then compute the length of the first half by:

$$FIRST \ HALF = \frac{DAYS \ REMAINING}{2} = 65 \ days$$

Continuing to use the amounts from the examples above assume 6,300 acre-feet have been assigned to the watermaster for mitigation. The augmentation rate for the first half is computed

augmentation. Starting from June 18 there are 120 days remaining in the irrigation season. The first half days are then computed to be:

$$FIRST\ HALF = \frac{DAYS\ REMAINING}{2} = 60\ days$$

Next, the amount of mitigation water remaining is determined to be 5,549 acre-feet (6,000 - [1.98 x 12 x 19]) and the first half augmentation rate is:

$$RATE_1 = \frac{5{,}549}{5.95 x 60} = 15.54\ cfs$$

The first half of the current augmentation period ends 60 days after June 18 or on August 16. To determine the second half augmentation rate use the remaining supply of mitigation water, 3,703 acre-feet (5,549 - [1.98 x 15.54 x 60]) and calculate as follows:

$$RATE_2 = \frac{3{,}703}{1.98 x 60} = 31.17\ cfs$$

In the examples above the changes from filling 1905 and earlier water rights to supplying augmentation at the full calculated rate have been assumed to happen in a single day. There will no doubt be situations in which all the 1905 and earlier water rights can not be filled from available natural flow but the full computed augmentation rate exceeds the amount of water necessary to fill all 1905 and earlier water rights. In these situations augmentation will be phased in such that no more augmentation occurs than is necessary for the 1905 and earlier rights. For example, if on June 18 above only 8 cfs was needed to be added to the natural flow to fill all 1905 and earlier water rights then that is all the augmentation that should be used instead of starting immediately with the computed amount of 15.54 cfs. As the natural flow continues to decrease more and more of the 15.54 cfs would be used to keep the 1905 rights filled until the full amount was being augmented at which time additional natural flow rights would be cut. The reduced amount of mitigation water used would need to be accounted for when the second half augmentation rate was calculated. The same but opposite situation could occur prior to May 20 when the full 12 cfs of augmentation might not be needed to fill all 1905 and earlier water rights as the river flow increased. In this case the amount of augmentation would be cut back to just that amount necessary to fill all 1905 and earlier water rights.

The watermaster will cooperate with the ground water users in scheduling the use of

TABLE 1

Table showing days remaining in the irrigation season by date.

Date	Days Remaining	Date	Days Remaining	Date	Days Remaining
May 1	168	June 26	112	August 21	56
May 2	167	June 27	111	August 22	55
May 3	166	June 28	110	August 23	54
May 4	165	June 29	109	August 24	53
May 5	164	June 30	108	August 25	52
May 6	163	July 1	107	August 26	51
May 7	162	July 2	106	August 27	50
May 8	161	July 3	105	August 28	49
May 9	160	July 4	104	August 29	48
May 10	159	July 5	103	August 30	47
May 11	158	July 6	102	August 31	46
May 12	157	July 7	101	Sept 1	45
May 13	156	July 8	100	Sept 2	44
May 14	155	July 9	99	Sept 3	43
May 15	154	July 10	98	Sept 4	42
May 16	153	July 11	97	Sept 5	41
May 17	152	July 12	96	Sept 6	40
May 18	151	July 13	95	Sept 7	39
May 19	150	July 14	94	Sept 8	38
May 20	149	July 15	93	Sept 9	37
May 21	148	July 16	92	Sept 10	36
May 22	147	July 17	91	Sept 11	35
May 23	146	July 18	90	Sept 12	34
May 24	145	July 19	89	Sept 13	33
May 25	144	July 20	88	Sept 14	32
May 26	143	July 21	87	Sept 15	31
May 27	142	July 22	86	Sept 16	30
May 28	141	July 23	85	Sept 17	29
May 29	140	July 24	84	Sept 18	28
May 30	139	July 25	83	Sept 19	27
May 31	138	July 26	82	Sept 20	26
June 1	137	July 27	81	Sept 21	25
June 2	136	July 28	80	Sept 22	24
June 3	135	July 29	79	Sept 23	23
June 4	134	July 30	78	Sept 24	22
June 5	133	July 31	77	Sept 25	21
June 6	132	August 1	76	Sept 26	20
June 7	131	August 2	75	Sept 27	19
June 8	130	August 3	74	Sept 28	18
June 9	129	August 4	73	Sept 29	17
June 10	128	August 5	72	Sept 30	16
June 11	127	August 6	71	October 1	15
June 12	126	August 7	70	October 2	14
June 13	125	August 8	69	October 3	13
June 14	124	August 9	68	October 4	12
June 15	123	August 10	67	October 5	11
June 16	122	August 11	66	October 6	10
June 17	121	August 12	65	October 7	9
June 18	120	August 13	64	October 8	8
June 19	119	August 14	63	October 9	7
June 20	118	August 15	62	October 10	6
June 21	117	August 16	61	October 11	5
June 22	116	August 17	60	October 12	4
June 23	115	August 18	59	October 13	3
June 24	114	August 19	58	October 14	2
June 25	113	August 20	57	October 15	1

Basin 34 Water Users Mitigation **Plan**
2/3/2005

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior groundwater users whose groundwater rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior groundwater users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet the requirements of Rule 50.04 by providing 6,110 ac-ft of water to augment the natural flow of the Big Lost River.

The Basin 34 Water Users (Water Users) understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from the Mackay Dam. Mitigation by augmenting flows in the Big Lost River does not guarantee any particular water right will receive a water supply in any year. Mitigation water is not required to be released when no water can be delivered due to a futile call for delivery of water rights in the reach of the river where the water rights held by the person calling for mitigation are diverted.
The Water Master of Water District 34 will administer and provide the accounting necessary to ensure that the total mitigation burden (6,110 ac-ft) will be satisfied through this mitigation plan. All ground water users within district 34 may participate in this plan. Each groundwater user who chooses to be covered under this plan will pay a fee to Water District 34 to cover the administration of the mitigation. The total mitigation burden is defined as the total amount of water District 34 groundwater users are required to provide to the river for mitigation purposes (i.e 6,110 ac-ft). Additionally, the proportion of the total mitigation burden that each groundwater user is required to provide for mitigation is defined as the individual mitigation burden. This is based on the individual's proportion of the previous year's pumpage.

This will be done by collecting mitigation water in the following manner:

1. Recharge - Managed Aquifer Recharge supplies will be the first preferred option for providing mitigation to whatever extent such supplies are available. Recharge that is conducted by the Water District's recharge committee, in compliance with the plan of operation incorporated into and made part of water rights nos. 34-7571 and 34-7573, will be considered as replacement water supplies for quantities of pumped ground water. Recharge water will be credited to mitigation at a rate equivalent to the depletion percentage stated in the water distribution rules (for - Water District 34) or higher as may be determined by future studies. Additionally, future studies may indicate that recharge may be credited to mitigation for multiple years. When recharge supplies are of great enough quantities, the entire mitigation burden may be satisfied with such supplies.
2. CREP - It is likely that some lands within the Big Lost River drainage will be placed in the CREP program. While the emphasis of that program appears to be to reduce groundwater withdrawal, some lands associated with decreed surface water may be enrolled. At the time of this submission, the details of this program regarding water rights have not been fully determined and disseminated to the public. However, if allowed by CREP, these un-diverted surface water rights will first be used to satisfy any individual mitigation burden required from the participant in the CREP program. Any additional un-diverted decreed surface water will be used to reduce the general mitigation burden *(i.e.* subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).

3. **Donated water** -Irrigators in the Big Lost River drainage may elect to donate their water (storage, rotation credit, or decreed) to mitigation. When water is donated, it will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).(as opposed to being donated to an individual to satisfy his individual mitigation burden).

Any water contributed through these avenues, outlined above, will be subtracted from the total mitigation burden and will reduce each individuals mitigation burden proportionately. Each individual groundwater user will be required to provide his portion the remainder of the total mitigation burden based on their the proportion of the ground water he pumped during the previous year to the total ground water pumped in Water District 34 during the previous year.

Each groundwater user will be required to contact the Water Master and declare how he plans to satisfy his portion of the general mitigation burden prior to April 1 st, of the coming irrigation season. Groundwater users may elect to designate water owned by them for mitigation or may purchase water from other individuals to be used for their mitigation. Additionally, the Water Master will acquire water from water right holders who wish to provide their decreed surface water, rotation credit water, or storage water to a purchase pool.

Any groundwater user, who wishes to purchase mitigation water from the purchase pool, to account for their individual mitigation burden as outlined above, will be able to buy purchase pool water acquired by the Water Master.

4)

5)

Individual mitigation burdens within this mitigation plan (as opposed to individual mitigation plans) may be satisfied in the following ways: decreed water, storage water, rotation credit water, ground water (under certain criteria) or a combination of the above.

. Decreed (natural flow) water - Groundwater users will indicate to the Water Master which surface water rights will be used as mitigation and during approximately which time period so that the volume of water not diverted equals that individual's mitigation burden.

-Unless the water is dedicated to mitigation for the entire irrigation season, groundwater users who choose to contribute natural flow to satisfy their individual mitigation burden or who offer natural flow water into the purchase pool, must demonstrate to the satisfaction of the Director of IDWR that they have forgone a beneficial use of that water.

- Decreed water, designated for mitigation, that comes from tributaries of the Big Lost River may also be used for mitigation. Some tributaries may not come into direct contact with the river, but dump directly into canals or laterals. When mitigation water is delivered in this manner (to a canal or lateral), the Water Master will reduce diversion of Big Lost River water into that canal or lateral by the measured amount of mitigation water the tributary delivers to that canal or lateral. Thus, tributary water will mitigate the Big Lost River without physically being delivered there. Permission must be obtained from the owners of the canals or laterals to place water into the canal or lateral.

- The decreed water upstream from Mackay Reservoir, designated for mitigation, will become natural flow in that portion of the river and will be deducted from the mitigation volume required for release at Mackay Dam.

. Storage water - Groundwater users will indicate which storage rights (owned or rented) and amounts will be used to satisfy their individual mitigation burden. The Water Master will convey this information to the Big Lost River Irrigation District

so they can note the change in nature of use for that water and credit the appropriate water users' mitigation burden.

- Rotation credit water - Groundwater users will indicate which decreed rights will be rotated as stored water, and approximately when this rotation might occur.
- Groundwater - Groundwater may be used for mitigation. However, the Water Master will only accept groundwater for mitigation purposes under the following conditions:
  - No other source of mitigation is available.
  - Water is directly injected into the river or a physical exchange of water can be made to the Big Lost River (this can only occur when the river is running past the canal in which water is being injected and the physical exchange must occur at the canal heading where the water is injected).
  - The river, canal, or lateral is not dry.
  - The mitigation water can be put to beneficial use.
  - Water from the well must be measured

- Anyone who uses groundwater to satisfy his individual mitigation burden, is responsible for their own expenditures (power costs etc.) associated with this form of mitigation.

- Combination - Any combination of water indicated above may be used to reach the individual mitigation burden required of any groundwater user.

Full mitigation by the groundwater user will be required before the water right(s) for that groundwater user is covered under this mitigation plan.

The Water Users understanding of the implementation of the mitigation through flow augmentation is as illustrated by the following example: The Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Water Master for mitigation purposes. Mitigation will only occur during the period May I through October 15th of the year and then only for water rights from the Big Lost River downstream from the Mackay Dam with priority dates of1905 and earlier. Rule 50.04.c.i provides a block portion of the mitigation water will be available to augment natural flow for the first half of the augmentation period and the remaining block portion of the mitigation water will be available to augment natural flow for the second half of the augmented period.

Impounded water for mitigation is water accumulated in the Mackay Reservoir. This includes stored water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules.

River flush water as contemplated by Rule 40.02.d.iii will also be considered mitigation and will be provided from the 6,110 ac-ft of impounded mitigation water. All river flush water will be considered mitigation and will reduce the 6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Water Master as illustrated in the example above, except that all river flush water will be credited to mitigation and will be deducted from the first half of

the mitigation period water supply requirement. This plan does not preclude individual groundwater users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6, II 0 ac-ft water for this plan will be reduced by the amount of mitigation water provided in all other mitigation plans combined which are approved by the beginning of the irrigation season.

The Water Users expect the Idaho Department of Water Resources (IDWR) and the Water Master to administer groundwater rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the irrigation season after a call for mitigation as been placed, approved, the criteria for conjunctive management have been satisfied..

In order to call for mitigation, individuals must request mitigation before they call for their irrigation water (rotation into credit is considered a call for water). Additionally, any requests made after I July will be evaluated by the Watermaster, in consultation with the Idaho Department of Water Resources, to determine whether the water right being called for could be filled by augmenting the river.

If mitigation is called for prior to the irrigation season, then the water users will also request an early start of the irrigation season
We reserve the right to modify this plan. However, no modification can take place during the irrigation season.

Any groundwater user who chooses to be covered under this plan after I April will be required to mitigate with money (by purchasing water from the Watermasters purchase pool) and will be charged a late fee of an additional $200 or 15%, whichever is greater. That money will be used to buy mitigation water in the following year and will be applied to the general mitigation burden.

Basin 34 Water Users Mitigation Plan
1/20/2005

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior groundwater users whose groundwater rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior groundwater users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet the requirements of rule 50.04 by providing 6,110 ac-ft of water to the Water Master to augment the natural flow of the Big Lost River.

The Basin 34 Water Users (Water Users) understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from the Mackay Dam. Mitigation does not guarantee any particular water right will receive a water supply in any year. Mitigation water is not required to be released when it would not benefit a water user calling for mitigation.

The Water Master of District 34 will administer and provide the accounting necessary to ensure that the total mitigation burden (6,110 ac-ft) is accounted for.

This will be done by collecting mitigation water in the following manner:

1. **Recharge** - Managed Aquifer Recharge supplies will be the first preferred option for providing mitigation to whatever extent such supplies are available. Recharge that is conducted by the Water District's recharge committee, in compliance with the plan of operation incorporated into and made part of water rights nos. 34-7571 and 34-7573, will be considered as replacement water supplies for quantities of pumped ground water. Recharge water will be credited to mitigation at a rate equivalent to the calculated depletion from groundwater withdrawal or higher as may be indicated by future studies. When recharge supplies are of great enough quantities, the entire mitigation burden may be satisfied with such supplies.
2. **Inadvertent mitigation contributions** – During the 2004 irrigation season, a malfunction at the Howell Gauge resulted in non-diversion of decreed rights for about 9 days when those rights actually should have been delivered. When this, or similar circumstances occur, the individual mitigation burden of groundwater users whose rights were affected will be credited. The remaining water, in excess of the amount needed by affected groundwater users, will be credited toward the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users. Compensation will not be made for water contributed to the general mitigation burden in this manner.
3. **CREP** – It is likely that some lands within the Big Lost River drainage will be placed in the CREP program. While the emphasis of that program appears to be reducing groundwater withdrawal, some lands associated with decreed surface water may be enrolled. When this occurs, these un-diverted surface water rights will first be used to satisfy any individual mitigation burden required from the participant in the CREP program. Any additional un-diverted decreed surface water will be used to reduce the

general mitigation burden (*i.e.* subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users). No compensation to the decreed water right holder will occur for this contribution to the general mitigation burden.

4. **Donated water** – Irrigators in the Big Lost River drainage may elect to donate their water (storage, rotation credit, or ~~decreed~~ Natural Flow) to mitigation. When water is donated to the Water Master (as opposed to being donated to an individual to satisfy his individual mitigation burden) that water will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).

Any water contributed through these avenues will be subtracted from the total mitigation burden. Individual groundwater users will be required to provide the remainder of the total mitigation burden based on their portion of previous year's pumpage.

Each groundwater user will be required to contact the Water Master and declare how he plans to satisfy his portion of the general mitigation burden prior to April 1st, of the coming irrigation season. Groundwater users may elect to designate water owned by them for mitigation or may purchase water from other individuals to be used for their mitigation. Additionally, the Water Master will acquire water from water right holders who wish to provide their ~~decreed~~ Natural Flow surface water, rotation credit water, or storage water to a purchase pool.

Any groundwater user who wishes to purchase mitigation water from the purchase pool for their own mitigation as outlined above, will be able to buy purchase pool water acquired by the Water Master..

Individual mitigation burdens may be satisfied in the following ways. ~~decreed~~ Natural Flow water, storage water, rotation credit water, ground water (under certain criteria) or a combination of the above.

- Decreed water - Groundwater users will indicate to the Water Master which surface water rights will be used as mitigation and during approximately which time period so that the volume of water not diverted equals that individual's mitigation burden.
  - Decreed water, designated for mitigation, that comes from tributaries of the Big Lost River may also be used for mitigation. Some tributaries may not come into direct contact with the river, but dump directly into canals or laterals. When mitigation water is delivered in this manner (to a canal or lateral), the Water Master will reduce diversion of Big Lost River water into that canal or lateral by the measured amount of mitigation water the tributary delivers to that canal or lateral. Thus, tributary water will mitigate the Big Lost River without physically being delivered there.
  - The ~~decreed~~ water upstream from Mackay Reservoir, designated for mitigation, will become natural flow in that portion of the river and will be deducted from the mitigation volume required for release at Mackay Dam.

- Storage water - Groundwater users will indicate which storage rights (owned or rented) and amounts will be used to satisfy their individual mitigation burden. The Water Master will convey this information to the Big Lost River Irrigation District so they can note the change in nature of use for that water and credit the appropriate water users' mitigation burden.
- Rotation credit water - Groundwater users will indicate which decreed rights will be rotated as stored water, and approximately when this rotation might occur.
- Groundwater – Groundwater may be used by individuals for mitigation. Use of this water is at the discretion of the Water Master. However, the Water Master will only accept groundwater for mitigation purposes under the following conditions:
  - A physical exchange of water can be made to the Big Lost River.
  - The river, canal, or lateral is not dry.
  - No other source of mitigation is available.
  - The mitigation water can be put to beneficial use.

  Anyone who elects to mitigate with groundwater, is responsible for their own expenditures (power costs etc.) associated with this form of mitigation.

- Combination - Any combination of water indicated above may be used to reach the individual mitigation burden required of any groundwater user.

Full mitigation by the groundwater user will be required before the water right(s) for that groundwater user is covered under this mitigation plan.

The Water Users understanding of the implementation of the mitigation through flow augmentation is as illustrated by the following example: The Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Water Master for mitigation purposes. Mitigation will only occur during the period May 1 through October 15th of the year and then only for water rights from the Big Lost River downstream from the Mackay Dam with priority dates of 1905 and earlier. Rule 50.04.c.i provides a block portion of the mitigation water will be available to augment natural flow for the first half of the augmentation period and the remaining block portion of the mitigation water will be available to augment natural flow for the second half of the augmented period.

Impounded water for mitigation is water accumulated in the Mackay Reservoir. This includes stored water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules. and storage water

River flush water as contemplated by Rule 40.02.d.iii will also be considered recharge for mitigation purposes and will be provided from the 6,110 ac-ft of impounded mitigation water. All river flush water not delivered to head gates for the first three (3) days after releasing the flush from the Mackay Dam will be considered recharge mitigation and will reduce the 6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Water Master as illustrated in the example above, except that all river flush water will be credited to mitigation and will be deducted from the first half of the mitigation period water supply requirement. This plan does not preclude individual groundwater users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6,110 ac-ft water for this plan will be reduced by the amount of mitigation water provided in all other approved mitigation plans combined.

The Water Users expect the Idaho Department of Water Resources (IDWR) and the Water Master to administer groundwater rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the irrigation season after a call for mitigation is placed in the basin.

During the irrigation season, water is sometimes present at the Arco Gauge. This occurs for two reasons 1) natural flow exceeds irrigation demand or 2) ground water level rises above the river bottom. In either case mitigation will not occur when water is present at the Arco Gauge because. 1) either all water rights are being satisfied or 2) the groundwater pumps have, by definition, not impacted the underground water supply.

Mitigation will not be required in years when the Mackay Dam fills.

If mitigation is called for, then an early start of the irrigation season will also be called.

We reserve the right to modify this plan.

Basin 34 Water Users Mitigation Plan
1/26/2005

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior groundwater users whose groundwater rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior groundwater users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet the requirements of rule 50.04 by providing 6,110 ac-ft of water to the Water Master to augment the natural flow of the Big Lost River.

The Basin 34 Water Users (Water Users) understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from the Mackay Dam. Mitigation does not guarantee any particular water right will receive a water supply in any year. Mitigation water is not required to be released when it would not benefit a water user calling for mitigation.

The Water Master of District 34 will administer and provide the accounting necessary to ensure that the total mitigation burden (6,110 ac-ft) is accounted for.

This will be done by collecting mitigation water in the following manner:

1. **Recharge** - Managed Aquifer Recharge supplies will be the first preferred option for providing mitigation to whatever extent such supplies are available. Recharge that is conducted by the Water District's recharge committee, in compliance with the plan of operation incorporated into and made part of water rights nos. 34-7571 and 34-7573, will be considered as replacement water supplies for quantities of pumped ground water. Recharge water will be credited to mitigation at a rate equivalent to the calculated depletion from groundwater withdrawal or higher as may be indicated by future studies. When recharge supplies are of great enough quantities, the entire mitigation burden may be satisfied with such supplies.
2. **Inadvertent mitigation contributions** – During the 2004 irrigation season, a malfunction at the Howell Gauge resulted in non-diversion of decreed rights for about 9 days when those rights actually should have been delivered. When this, or similar circumstances occur, the individual mitigation burden of groundwater users whose rights were affected will be credited. The remaining water, in excess of the amount needed by affected groundwater users, will be credited toward the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users. Compensation will not be made for water contributed to the general mitigation burden in this manner.
3. **CREP** – It is likely that some lands within the Big Lost River drainage will be placed in the CREP program. While the emphasis of that program appears to be to reduce groundwater withdrawal, some lands associated with decreed surface water may be enrolled. When this occurs, these un-diverted surface water rights will first be used to satisfy any individual mitigation burden required from the participant in the CREP program. Any additional un-diverted decreed surface water will be used to reduce the

general mitigation burden (*i.e.* subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users). No compensation to the decreed water right holder will occur for this contribution to the general mitigation burden.

4. **Donated water** – Irrigators in the Big Lost River drainage may elect to donate their water (storage, rotation credit, or decreed) to mitigation. When water is donated to the Water Master (as opposed to being donated to an individual to satisfy his individual mitigation burden) that water will be used to reduce the general mitigation burden (i.e. subtracted from the general mitigation burden to lower the percentage of the general mitigation burden required by individual groundwater users).

Any water contributed through these avenues will be subtracted from the total mitigation burden. Individual groundwater users will be required to provide the remainder of the total mitigation burden based on their portion of previous year's pumpage.

Each groundwater user will be required to contact the Water Master and declare how he plans to satisfy his portion of the general mitigation burden prior to April 1st, of the coming irrigation season. Groundwater users may elect to designate water owned by them for mitigation or may purchase water from other individuals to be used for their mitigation. Additionally, the Water Master will acquire water from water right holders who wish to provide their decreed surface water, rotation credit water, or storage water to a purchase pool.

Any groundwater user who wishes to purchase mitigation water from the purchase pool for their own mitigation as outlined above, will be able to buy purchase pool water acquired by the Water Master..

Individual mitigation burdens may be satisfied in the following ways: decreed water, storage water, rotation credit water, ground water (under certain criteria) or a combination of the above.

- Decreed water - Groundwater users will indicate to the Water Master which surface water rights will be used as mitigation and during approximately which time period so that the volume of water not diverted equals that individual's mitigation burden.

  - Decreed water, designated for mitigation, that comes from tributaries of the Big Lost River may also be used for mitigation. Some tributaries may not come into direct contact with the river, but dump directly into canals or laterals. When mitigation water is delivered in this manner (to a canal or lateral), the Water Master will reduce diversion of Big Lost River water into that canal or lateral by the measured amount of mitigation water the tributary delivers to that canal or lateral. Thus, tributary water will mitigate the Big Lost River without physically being delivered there.

  - The decreed water upstream from Mackay Reservoir, designated for mitigation, will become natural flow in that portion of the river and will be deducted from the mitigation volume required for release at Mackay Dam.

- Storage water - Groundwater users will indicate which storage rights (owned or rented) and amounts will be used to satisfy their individual mitigation burden. The Water Master will convey this information to the Big Lost River Irrigation District so they can note the change in nature of use for that water and credit the appropriate water users' mitigation burden.
- Rotation credit water - Groundwater users will indicate which decreed rights will be rotated as stored water, and approximately when this rotation might occur.
- Groundwater – Groundwater may be used by individuals for mitigation. Use of this water is at the discretion of the Water Master. However, the Water Master will only accept groundwater for mitigation purposes under the following conditions:
  - A physical exchange of water can be made to the Big Lost River (this can only occur when the river is running past the canal in which water is being injected).
  - The river, canal, or lateral is not dry.
  - No other source of mitigation is available.
  - The mitigation water can be put to beneficial use.
  - Water from the well must be measured

  Anyone who elects to mitigate with groundwater, is responsible for their own expenditures (power costs etc.) associated with this form of mitigation.

- Combination - Any combination of water indicated above may be used to reach the individual mitigation burden required of any groundwater user.

Full mitigation by the groundwater user will be required before the water right(s) for that groundwater user is covered under this mitigation plan.

The Water Users understanding of the implementation of the mitigation through flow augmentation is as illustrated by the following example: The Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Water Master for mitigation purposes. Mitigation will only occur during the period May 1 through October 15th of the year and then only for water rights from the Big Lost River downstream from the Mackay Dam with priority dates of 1905 and earlier. Rule 50.04.c.i provides a block portion of the mitigation water will be available to augment natural flow for the first half of the augmentation period and the remaining block portion of the mitigation water will be available to augment natural flow for the second half of the augmented period.

Impounded water for mitigation is water accumulated in the Mackay Reservoir. This includes stored water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules.

River flush water as contemplated by Rule 40.02.d.iii will also be considered recharge for mitigation purposes and will be provided from the 6,110 ac-ft of impounded mitigation water. All river flush water will be considered recharge mitigation and will reduce the

6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Water Master as illustrated in the example above, except that all river flush water will be credited to mitigation and will be deducted from the first half of the mitigation period water supply requirement. This plan does not preclude individual groundwater users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6,110 ac-ft water for this plan will be reduced by the amount of mitigation water provided in all other approved mitigation plans combined.

The Water Users expect the Idaho Department of Water Resources (IDWR) and the Water Master to administer groundwater rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the irrigation season after a call for mitigation is placed in the basin.

During the irrigation season, water is sometimes present at the Arco Gauge. This occurs for two reasons 1) natural flow exceeds irrigation demand or 2) ground water level rises above the river bottom. In either case mitigation will not occur when water is present at the Arco Gauge because, 1) either all water rights are being satisfied or 2) the groundwater pumps have, by definition, not impacted the underground water supply.

In order to call for mitigation, individuals must 1) request mitigation before they call for their irrigation water, 2) have a water right that is on during some portion of the irrigation season, and 3) participate in a mitigation seminar. This seminar will be conducted by the Watermaster and will outline how mitigation water is accumulated, administered, and the benefit individuals calling for mitigation may expect.

Mitigation will not be required in years when the Mackay Dam fills.

If mitigation is called for, then an early start of the irrigation season will also be called.

We reserve the right to modify this plan. However, no modification can take place during the irrigation season.