

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

***WATER DISTRICT NO. 37***  
107 WEST 1<sup>ST</sup>  
SHOSHONE, IDAHO 83352  
(208) 886/2451



March 24, 2014

RE: Croy Creek Deliveries

I am writing to update water users on upper Croy Creek of conditions that warrant some clarification. To begin please refer to the attached list of water rights delivered in this stretch of Croy Creek.

On June 11, 2013, I was contacted by Conrad Casser, because flows on Croy Creek were well below average already early in the season. An inspection of the stream found that the main channel of Croy Creek ceased to flow between the Diamond A Livestock (Faulkner) diversion and the next diversion downstream (Clark/McColly). At that time there was still a small flow at the fifth diversion (Ferris) from a spring source that was emerging slightly upstream from the Ferris diversion. Some of this water was making it through the Ferris diversion to the Casser diversion via a pipeline between their two systems. Approximately 2 weeks later the source above the Ferris diversion ceased to flow. Due to the excessive stream channel losses, I made the determination that curtailing the Faulkner diversion in order to make downstream deliveries would be futile because water would not reach any downstream diversions.

On September 6, 2013, I spoke to Mike Faulkner by phone and asked him about his irrigation practices at the time. He said that they had either stopped irrigating or were irrigating much less, because conditions were so poor. Sometime around the middle of September I was called back to Croy Creek by Conrad Casser to discuss future management options on Upper Croy Creek. At that time, his diversion was dry, but upon inspection of the entire system, I found the spring source at the Ferris diversion had reappeared. The source was flowing, but not strong enough to reach the Casser diversion. The main flow of Croy Creek on the surface was still not making it from the Faulkner diversion to the Clark/McColly diversion.

Upon a more complete evaluation of this system, I believe I may have been in error in determining the futile delivery early in the 2013 season. Due to the fact that water began to flow at the Ferris diversion after Faulkner voluntarily decreased or shut off, there is a possibility that curtailment of upstream users may result in flows/deliveries to downstream users even though the system is not connected on the surface the entire stretch of the stream.

Since all of these rights in this area carry the same priority date (6/1/1880), all rights should share in stream losses equally and each user should receive a pro-rata share of the net deliverable water after all

stream losses are suffered. As conditions warrant, measuring and recording will be kept on the upper two diversions as well as the spill past the Faulkner diversion. This will give us a baseline number of deliverable water and its rate of loss through the system. If in the future, flows are again scarce and full deliveries cannot be made I will curtail all upstream diversions to see if the spring system at the Ferris diversion reacts as it did this past season. If the spring reacts, adjustments will then be made to deliver the pro rata share deliverable after all losses are suffered.

An exact time limit to determine a futile call is not spelled out in Idaho Code. The response time for the spring to react in 2013 may have been around two weeks, but further testing will likely be needed to be more specific.

If this method of curtailing everyone pro-rata results in too little water for beneficial use, there is still the possibility of developing a rotation schedule and allowing all water to be delivered to different users on a rotating basis.

These are attempts to insure equitable delivery to all users in the area, and I am sure there will be mistakes made before we get it completely right, but we must make a concerted effort to make each water user as whole as possible. If you have any questions, you can contact me at the letter head address and/or phone number.

Respectfully

A handwritten signature in black ink, appearing to read "Kevin Lakey", with a stylized, flowing script.

Kevin Lakey

Water District 37