

# Memorandum

February 27, 2018

TO: Water District 34

FROM: Cindy Yenter, IDWR Salmon Field Office

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RE: "Kid's Creek" –Swauger Ditch Diversion from the Big Lost River

The Swauger Ditch diverts from the Big Lost River in SSW Sec 20, T7N R24E. The upper reach of the Swauger Ditch, depicted on USGS quad maps as "Swauger Slough", and known locally as "Kid's Creek", travels in a southeasterly direction around and through the City of Mackay to a point south of the High School, where flows may be spilled back to the Big Lost River or may continue eastward across Highway 93 and over the measuring device for the Swauger Ditch. Historically, winter flows of up to 8 cfs have been allowed to flow down the Swauger Ditch and be spilled back to the river.

In late December 2017, Big Lost River WD34 Watermaster Lucas Yockey closed the Big Lost River headgate to the Swauger Ditch. Icing in the ditch had been causing flooding in the town of Mackay. Since that time, the watermaster has received numerous phone calls demanding that "Kid's Creek" be turned back on. Most Mackay residents consider Swauger Ditch to be a naturally flowing channel, even though the ditch is regulated at the Big Lost River.

The Swauger Ditch is one of a system of canals operated by the Big Lost River Irrigation District (BLRID) to deliver decreed and storage water rights to water users in the Big Lost Valley. Diversions occur by means of a traditional check dam and headgate on the Big Lost River. Like many other canals in the Big Lost, the Swauger utilizes a down-canal check, spill and bypass channel back to the river. These structures do not indicate or confirm the presence of an historic natural channel. They are installed in order that ditch operators can adjust delivered flows in the ditch without returning all the way to the head control. IDWR has no documentation that any portion of the Swauger Ditch is an historic natural channel or a creek. The Swauger is a canal or ditch, maintained by the BLRID and subject to the same regulation as other canals or ditches. The water right points of diversion are decreed at the river, not down the channel at the spill.

There is no record of authorized winter diversions approaching 8 cfs in the Swauger Ditch. SRBA partial decrees in the Big Lost were awarded starting in 2001. Of the approximately three dozen water rights with a point of diversion decreed at the head of the Swauger Ditch, only two authorize non-irrigation season diversion, for stockwater limited to 1.02 cfs. No other recorded rights authorize winter diversions for minimum flow, recreation, fish propagation or any other beneficial use. The BLRID has no authority to divert or convey minimum flows or any other winter flows in its canals, unless there is an authorizing water right. All authorized diversions are under the jurisdiction of the watermaster of WD34.

The watermaster has not received a call to deliver winter stockwater rights to the Swauger. Even if the stockwater rights were called, flows may not be deliverable due to ditch icing, ditch losses, or BLRID policy governing winter diversions in its canals.

The WD34 watermaster acted appropriately in closing the Swauger headgate. The watermaster is instructed to continue to regulate the Swauger headgate with respect to the decreed rights authorized at that point of diversion.