



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 23, 2021

Matea McCray
3470 Cobblestone
Idaho Falls, ID 83404

Re: Petitions Concerning Ground Water Recharge in the Big Lost River Basin

Dear Ms. McCray:

You sent me two emails with signed petitions attached to the emails. The petitions state that the petitioners “want water flowing in the Big Lost River through the City of Arco and out towards Box Canyon by keeping the 60 cfs (3,000 inches) flow requirement at the Arco gage per the 1997 Settlement Agreement and current Water District 34 Plan of Operations.” Thank you for your interest in water administration in the Big Lost River Basin.

Water District No. 34, Big Lost River, holds two water right permits, numbered 34-7571 and 34-7573. Permit no. 34-7571 authorizes diversion of 270 cfs from the Big Lost River and tributaries for ground water recharge. Permit no. 34-7573 authorizes diversion of 530 cfs from the Big Lost River and tributaries for ground water recharge.

At the time applications were filed for permit nos. 34-7571 and 34-7573, protests were filed against the applications. Negotiations between the applicants and the protests resulted in a written water district plan of operation that required a three-day average of 60 cfs or more flowing in the Big Lost River at the Arco Gage before water could be diverted from the river or tributaries for ground water recharge. This requirement was a negotiated requirement for addressing concerns raised by the protestants.

When IDWR approved the permits, IDWR required adherence to the plan of operation, worded as follows:

Approval of this right is subject to the Plan of Operation and other terms and conditions as set forth in the Settlement Agreement and Stipulation dated April 21, 1997.

The permits did not expressly require, as a condition of the permit, that 60 cfs must be measured at the Arco Gage.

I understand that water users attending the 2021 annual meeting of Water District 34 voted to support proposed changes to the Plan of Operation that would eliminate the 60 cfs prerequisite to diversion of water for ground water recharge.

The condition of approval for both permits, quoted above, specifically referenced a “Plan of Operation” and also “terms and conditions . . . in the Settlement Agreement and Stipulation dated April 21, 1997.” IDWR will interpret the condition to mean that the plan of operation, written at the time of protest withdrawal and issuance of the permits pursuant to the agreement and stipulation of the parties, is the plan that will govern when water can be diverted for recharge pursuant to the permits. The plan of operation cannot be unilaterally modified by the Water District by resolution.

The Watermaster of Water District 34, Big Lost River, has been instructed to deliver water to the recharge water rights only when the 60 cfs flow requirement at the Arco Gage is satisfied.

Thank you again for your interest in water administration in the Big Lost River Basin.

Sincerely,

A handwritten signature in blue ink that reads "Gary Spackman". The signature is written in a cursive style with a large, sweeping flourish at the end.

Gary Spackman
Director

c. Lucas Yockey, Watermaster, Water District 34