

**COPY**

**WATER DIST 74  
985 HWY 28  
SALMON, ID. 83467**

RECEIVED  
JUL 20 2004  
DEPARTMENT OF  
WATER RESOURCES

JUNE 30, 2004

Terry  
Office of Species Conservation  
300 N 6<sup>th</sup> Street Suite 101  
Boise, ID 83702

Re: Agreements not to Divert from May 15 to June 30, 2004

WD 74 2004  
Originals  
(Lemhi L6)  
(WD 74)  
not for  
2004  
max  
SPC

Dear Terry:

The attached graph will explain what happened from May 16 to June 30, 2004.

The river would have gone dry on May 16<sup>th</sup>. With the agreement not to divert, (Paul Fisher, Lowell Cerice, Don Olson, Dick Santos, Dean Stokes, Gordon Stephenson, and Alan Bodenhamer) all participated and agreed not to divert all or part of their water rights on a day to day request if water was needed to supply 35 CFS flow in the Lemhi River.

The water was used for the first four days (May 16, 17, 18, & 19) when it began to rain and then for one day on (May 22). See attached graph. The irrigator's water was used for a total of five days out of the contract.

Amount owed to users:

Paul Fisher	\$2,016.25
Lowell Cerice	\$1,742.04
Don Olson	\$2,016.25
Dick Santos	\$1,221.85
Dean Stokes	\$1,310.56
Gordon Stephenson	\$3,266.33
Alan Bodenhamer	\$2,556.61
Water Dist 74	\$335.00

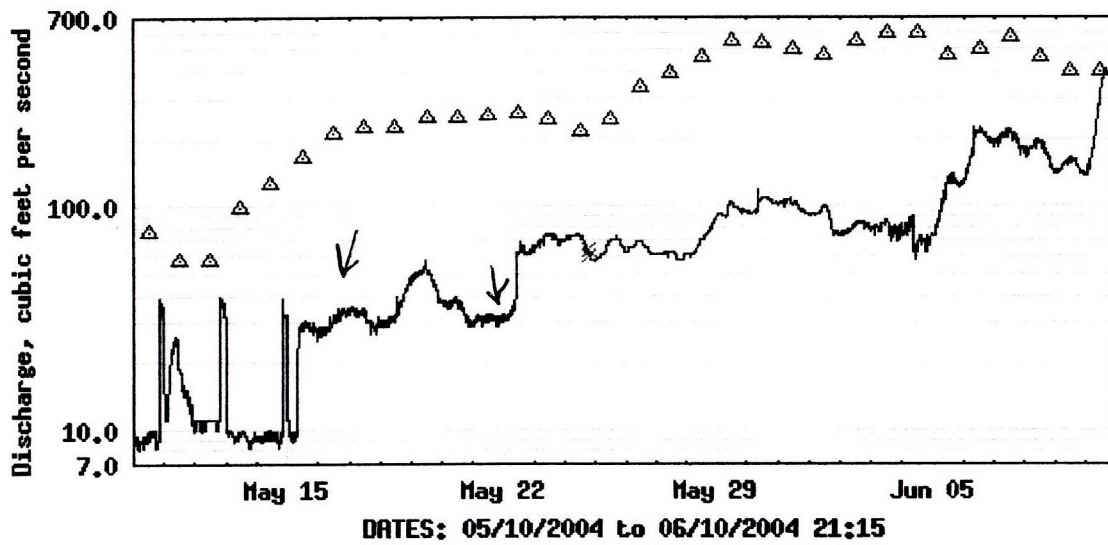
Sincerely,

Rick Sager  
Water master Dist 74

SCANNED  
MAR 11 2016



**USGS 13305310 LEMHI RIVER BELOW L5 DIVERSION NEAR SALMON, ID**



**EXPLANATION**

- DISCHARGE
- △ MEDIAN DAILY STREAMFLOW BASED ON 10 YEARS OF RECORD
- × MEASURED Discharge

**Provisional Data Subject to Revision**

**SCANNED**  
**MAR 11 2016**



**AGREEMENT NOT TO DEVERT FROM MAY 15 TO JUNE 30**

<b><u>NAME @ IDENT #</u></b>	<b><u>AMOUNT</u></b>	<b><u>DAYS</u></b>	<b><u>@ \$80.65 cfs per day</u></b>
PAUL FISHER 74-326B (L-6) 74-325K (L-6) 74-324A (L-6)	5.0 CFS	5	\$2,016.25
LOWELL CERISE 74-820 (L-7) 74-826 (L-7)	4.32 CFS	5	\$1,742.04
DON OLSON 74-837 (L-8a)	5.0 CFS	5	\$2,016.25
DICK SANTOS 74-513 (L-8a)	3.03 CFS	5	\$1,221.85
DEAN STOKES 74-843 (L-8a)	3.25 CFS	5	\$1,310.56
GORDON STEPHENSON 74-745 (Pump) 74-738A (L-13)	8.1 CFS	5	\$3,266.33
ALAN BODENHAMER 74-746E (L-10) 74-738B (L-13)	6.34 CFS	5	\$2,556.61
<b><u>TOTAL</u></b>	<b><u>35.0 CFS</u></b>		

WATER DIST 74 @ \$67.00 per day for five days

\$335.00

**SCANNED**

**MAR 11 2016**

**STANDARD CONTRACT PROVISIONS  
DEPARTMENT OF WATER RESOURCES**

**I. DEFINITIONS**

- A. "Project Coordinator" shall mean that person appointed by the Department to administer this Contract on behalf of the Department and the term includes, except as otherwise provided in this Contract, an authorized representative of the Project Coordinator acting within the limits of his authority.
- B. "Subcontractor" shall mean one, not in the employment of any party to this Contract, who is performing all or part of those services under this Contract under contract. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

**II. PROJECT COORDINATION**

- A. All communications given to a party's Project Coordinator shall be as binding as if given to the party.
- B. The Department's director or anyone authorized to act on his behalf, may change the Department's Project Coordinator at any time by written notice served on the Contractor. This entity may change its Project Coordinator by prior written notice served on the Department.
- C. The Contractor's Project Coordinator shall be the entity's representative for administration of this Contract and shall have full authority to act on behalf of the Contractor, unless specified otherwise in the main body of the Contract.

**III. LIMITATION OF PROGRAM FUNDS**

- A. The Contractor acknowledges that the Department cannot obligate funds prior to obtaining funding approval.
- B. The Department certifies that state or federal funds are presently available and authorized for expenditure to pay the portion of costs which will accrue during the current state or federal fiscal year or applicable grant period.
- C. The Contractor agrees that all obligations of the Department, including the continuance of payments under this Contract, are contingent upon the availability and continued appropriation of funds. In the event state or federal funds become unavailable as determined by the Department, the Department may immediately terminate this Contract or amend it accordingly. In no event shall the Department be liable for any payments in excess of approved or appropriated funds available for this project.

**IV. TERMINATION FOR CONVENIENCE**

- A. The Department may terminate for its convenience this Contract in whole or in part. In such event, the Department shall serve a written Notice of Termination on the Contractor by deposit in the United States mail, certified mail, return receipt requested, with proper postage affixed. Notice of Termination shall be deemed served upon its receipt.
- B. The Contractor shall not incur after the date of service of the Notice of Termination any noncancellable obligations, except as authorized in the written Notice of Termination.

- C. A Notice of Termination shall be effective for professional and other services authorized in the Contract on the date of service of Notice of Termination.
- D. If a Termination for the convenience of the Department is effected, an equitable adjustment in the payments authorized in this Contract shall be made. Such adjustments shall provide for payment to the Contractor for services rendered prior to the effective date of termination of the Contract and for all noncancellable obligations incurred prior to receipt of a Notice of Termination.
- E. In the event of termination, both the Department and the Contractor shall submit a Final Report detailing all completed work on service required by this Contract.

V. **TERMINATION FOR DEFAULT**

- A. In addition to any termination of this Contract in accordance with Paragraph IV hereof, the Department may terminate this Contract in whole or in part because of the failure of the Contractor to fulfill its obligations. Upon receipt of such termination by the Department, the Contractor shall immediately discontinue all services affected. Oral notice of termination by the Department is effective when given, but in such a case, the Department shall confirm with written Notice of Termination by deposit in the United States mail, certified mail, return receipt requested.
- B. If a termination for default is effected, an equitable adjustment in the payments authorized in this Contract shall be made. Such adjustments shall provide for payment to the Contractor for services rendered prior to the effective date of termination of the Contract and for all noncancellable obligations incurred prior to receipt of a Notice of Termination.
- C. The rights and remedies of the Department provided in this Contract are in addition to any other rights and remedies provided by law or under this Contract.

VI. **INDEMNIFICATION**

The Contractor agrees to indemnify and hold harmless the Department and the State of Idaho, its officers, agents or employees from all liability and expense, including attorney fees, on account of claims, suits and costs growing out of or connected with negligent acts, errors, or omissions by the Contractor or its employees if any, provided, however, that the Department shall not be relieved hereby from liability for its own negligence and that of its employees.

VII. **NO PERSONAL LIABILITY**

Contractor specifically understands and agrees that in no event shall any official, officer, employee or agent of the Department be personally liable for any representation, statement, covenant, warranty or obligation contained in, or made in connection with, this Contract, express or implied.

VIII. **TAXES**

The Contractor, with respect to its employees and those of its subcontractors, if any, shall pay, indemnify and hold the Department harmless from the payment of all taxes and contributions imposed by federal and state laws, including social security taxes, with respect to said employees and their remunerations, including all interest and penalties payable under said laws as the result of noncompliance therewith.



IX. WORKER'S COMPENSATION INSURANCE

Unless the Contractor is exempt under the provisions of I.C. § 72-212, the Contractor warrants that it has purchased worker's compensation insurance for Contractor and all employees engaged in the performance of this Contract and shall provide the Department with a Certificate of Insurance to verify the same within 15 days of the execution of this Contract. the Contractor shall notify the Department's Project Coordinator within five (5) days of any change in the status of its worker's compensation insurance.

X. INSURANCE

The Contractor shall maintain insurance of the types and in the amounts typically maintained by others in the same occupation or profession as the Contractor, including, but not limited to, comprehensive general liability insurance in the minimum amount of \$1,000,000 per occurrence, and professional malpractice insurance, if applicable, all with insurance companies properly licensed to do business in Idaho.

XI. RELATIONSHIP OF THE PARTIES

A. The parties intend to create by the terms of this Contract an independent contractor relationship between the Department and the Contractor.

B. The parties do not intend to create by the terms of this Contract the relationship of employer and employee. The Contractor shall be responsible to withhold all monies required by law for FICA and income tax purposes.

XII. ASSIGNMENT OF BENEFITS AND DELEGATION OF DUTIES

A. The Contractor shall not delegate any duties under this Contract or assign any benefits, including any moneys due or to become due hereunder, without the prior written consent of the Department.

B. In the event a delegation of duties or an assignment of benefits is approved by the Department, the Contractor agrees to bind every such delegate or assignee to comply with the terms and conditions of this Contract.

XIII. WAIVER, MODIFICATION OR AMENDMENT

No waiver, modification, or amendment of this Contract or of any covenants, conditions or limitations herein contained shall be valid unless in writing duly executed by both parties and the parties further agree that the provisions of this section may not be waived, modified, or amended except as herein set forth.

XIV. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Department shall have the right to annul this Contract without liability or in its discretion to deduct from the price of consideration, or other wise recover, the full amount of such commission, percentage, brokerage, or contingent fee.



**XV. PUBLIC RECORDS**

Pursuant to Idaho Code section 9-335 *et seq.*, information or documents received from Contractor may be open to public inspection and copying unless exempt from disclosure as a trade secret or proprietary. Contractor shall clearly designate individual documents as "trade secret" or "confidential" and Contractor agrees to indemnify and defend the State for honoring such a designation. The failure to designate any document that is released by the Department shall constitute a complete waiver of any and all claims for damages caused by any such release.

**XVI. RIGHTS IN DATA**

- A. The Contractor agrees that all data, plans, drawings, specifications, reports, operating manuals, notes and other written documents produced in the performance of this Contract or in contemplation thereof, are subject to the rights of the Department set forth in this paragraph.
- B. The Department shall have the right to reproduce, publish and use all such documents or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so.
- C. The Department agrees to identify the Contractor or designate appropriate authorship, on all materials reproduced and published that are a direct product of the work performed under this Contract.

**XVII. RETENTION OF RECORDS AND ACCESS TO FACILITIES, PREMISES AND RECORDS**

- A. The Contractor shall establish and maintain project budget accounts and records for work and services required by this Contract in accordance with generally accepted accounting principles and practices. Records shall be retained by the Contractor throughout the term of this Contract and for a period of three (3) years following final settlement.
- B. At all reasonable times during the term of this Contract and for a period of three (3) years following final settlement, the Department, State of Idaho, and their authorized representatives shall have access at the Contractor's offices to its records related to the services performed under this Contract for the purposes of inspection, audit and copying by the Department, State of Idaho, and their authorized representatives. In addition, the Contractor is required to comply with the requirements of the federal "Single Audit Act of 1984." The Department may make available to the Contractor the Single Audit requirements upon completion of the Contractor's fiscal year.

**XVIII. ATTORNEYS' FEES**

In the event of a legal proceeding of any kind instituted under this Contract or to obtain performance of any kind under this Contract, the prevailing party shall be awarded such additional sums as the court may adjudge for reasonable attorneys' fees and to pay all costs and disbursements incurred in such proceeding.

**XIX. FORCE MAJEURE**

Neither party shall be liable for or deemed to be in default for any delay or failure to perform under this Contract if such delay or failure to perform results from an act of God, civil or military authority, act of war, riot, insurrection or other occurrence beyond that party's control. In such case, the intervening cause must not be caused by the party asserting it and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

XX. ENTIRE AGREEMENT

This Contract sets forth all the covenants, provisions, agreements, conditions and understandings between the parties, and there are no covenants, provisions, agreements, conditions or understandings, oral or written, between them other than are herein set forth.

XXI. SEVERABILITY

If any part of this Contract is declared invalid or becomes inoperative for any reason, such invalidity or failure shall not affect the validity and enforceability of any other provision.

XXII. NO WAIVER

The waiver of any breach or default of this Contract shall not be construed as or deemed to be a waiver of any subsequent breach or default.

XXIII. EFFECT OF SECTION HEADINGS

The section headings appearing in this Contract are not to be construed as interpretations of the text but are inserted for convenience and reference only.

XXIV. GOVERNING LAW

This Contract shall be governed as to validity, construction and performance by the laws of the State of Idaho. The venue of any action brought by any parties to this Contract shall be in a State of Idaho District Court or the United States District Court for the District of Idaho.

XXV. NOTICES

All notices shall be sent certified mail, postage prepaid, return receipt requested to:

Idaho Department of Water Resources  
Attn: Ranae Sanders  
1301 North Orchard St.  
Boise, ID 83706

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**WATER DISTRICT 74  
AGREEMENT NOT TO DIVERT WATER FROM LEMHI RIVER**

This Agreement entered into by and between Water District 74 ("WD 74"), and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

**RECITALS**

1. WD 74 delivers water from the Lemhi River to a point of diversion known as the L6 Ditch.
2. IDWR, OSC, and WD 74 desire to provide a target flow of 35 cubic feet per second ("cfs") of water below the L6 diversion to facilitate chinook salmon migration.
3. IDWR, OSC, and WD 74 desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to WD 74 as compensation for ensuring that a target flow of 35 cfs remains in the Lemhi River below the L6 diversion for the benefit of migrating salmon.

Now therefore, in consideration of the following promises and commitments, WD 74, IDWR, and OSC agree as follows:

**AGREEMENT**

1. Statement of Purpose

This document outlines an agreement by WD 74 to provide a target flow of 35 cfs of water below L6 beginning on May 15, 2004, through June 30, 2004, as needed, when irrigation demand and low natural in-stream flows prevent at least 35 cubic feet per second ("cfs") from remaining in the Lemhi River channel below L6. These flows are intended to benefit the migration of chinook salmon between diversion points L6 and L3A. For conservation purposes, certain water users have agreed that the watermaster for WD 74 will not divert a portion or all of their water rights as needed to maintain a target flow of 35 cfs below L6.

2. Scope of Work

- A. For conservation purposes, up to 35 cfs of water shall not be diverted at the L6 diversion commencing on May 15, 2004, and continuing as needed through June 30, 2004, if normal irrigation delivery requirements reduce in-stream

flow to less than 35 cfs below L6. Upon evaluation of water conditions and a determination that water is needed to maintain a target flow of 35 cfs below L6, the watermaster for WD 74, in accordance with agreements with certain water users, shall ensure that up to 35 cfs is not diverted from the Lemhi River at L6.

- B. OSC shall pay to WD 74 a total sum of sixty seven dollars (67) per day for each day during the period specified that the watermaster is required to adjust diversions to ensure that a target flow of 35 cfs remain in the Lemhi River channel below L6. The sixty seven dollar (67) payments are intended to reimburse the watermaster of WD 74 for additional duties required by this Agreement. Accordingly, WD 74 agrees that the watermaster of WD 74 shall be reimbursed sixty-seven dollars (\$67) per day for each day that additional duties are required to maintain a target flow of 35 cfs below L6.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

### 3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

### 4. General Terms and Conditions

WD 74 agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties obligations are otherwise outlined in paragraph 2.C of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

### 5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.



IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

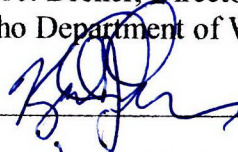
Carl Ellsworth, Chairman  
Water District 74



5/19/04

Date

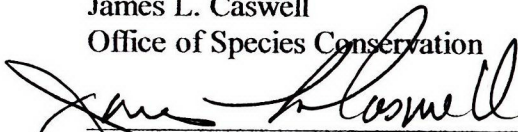
Karl J. Dreher, Director  
Idaho Department of Water Resources



June 23, 2004

Date

James L. Caswell  
Office of Species Conservation



6/14/04

Date

## AGREEMENT NOT TO DIVERT WATER FROM THE LEMHI RIVER

This Agreement entered into by and between Don Olson and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

### RECITALS

1. Don Olson owns a water right(s) designated as no(s). 74-837. Water right no(s). 74-837 allow(s) the diversion of 6.1 cubic feet per second ("cfs") of water from the Lemhi River.
2. IDWR and OSC desire to maintain a target flow of 35 cfs of water in the Lemhi River below the Lemhi L6 diversion to facilitate upstream migration of chinook salmon.
3. Don Olson, IDWR, and OSC desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to Don Olson as compensation for not diverting water under his/her water right(s) to enhance instream flows for the benefit of salmon.

NOW THEREFORE, in consideration of the following promises and commitments, Don Olson, IDWR, and OSC agree as follows:

### AGREEMENT

#### 1. Statement of Purpose

This document outlines an agreement by Don Olson to allow up to 5.0 cfs of water to remain in the Lemhi River as needed for use in meeting a 35 cfs target flow below a point of diversion known as the L6 ditch during the period commencing on May 15, 2004, and terminating at midnight on June 30, 2004. The agreement will be implemented by the watermaster of Water District 74 (WD 74). The watermaster of WD 74 will adjust the diversion of water right no(s). 74-837 on a daily basis as water is needed to maintain a target flow of 35 cfs of water in the Lemhi River to benefit the migration of chinook salmon.

#### 2. Scope of Work

- A. For conservation purposes, Don Olson shall not divert up to 5.0 cfs of water under water right no(s). 74-837 from the Lemhi River when the watermaster for WD 74 determines that additional water is needed to maintain a target flow of 35 cfs below L6. Don Olson will allow up to 5.0 cfs of water to remain in the Lemhi River when needed to meet the 35 cfs target flow for the period of May 15, 2004, through June 30, 2004.
- B. OSC shall pay to Don Olson the sum of eighty dollars and sixty-five cents (\$80.65) per cfs per each day that water is not diverted as compensation for not diverting water under its water right(s) for the period specified.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until midnight June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

4. General Terms and Conditions

Don Olson agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties' obligations are otherwise outlined in paragraph 2.C. of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.



IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

V. Don Olson

Printed Name

V. Don Olson

Signature

May 14 / 04

Date

Karl J. Dreher, Director

Idaho Department of Water Resources

Karl J. Dreher

June 23, 2004

Date

James L. Caswell

Office of Species Conservation

James L. Caswell

Date

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**AGREEMENT NOT TO DIVERT WATER  
FROM THE LEMHI RIVER**

This Agreement entered into by and between Lowell Cerise and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

**RECITALS**

1. Lowell Cerise owns a water right(s) designated as no(s). 74-820, & 74-826. Water right no(s). 74-820, & 74-826 allow(s) the diversion of 4.32 cubic feet per second ("cfs") of water from the Lemhi River.
2. IDWR and OSC desire to maintain a target flow of 35 cfs of water in the Lemhi River below the Lemhi L6 diversion to facilitate upstream migration of chinook salmon.
3. Lowell Cerise, IDWR, and OSC desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to Lowell Cerise as compensation for not diverting water under his/her water right(s) to enhance instream flows for the benefit of salmon.

NOW THEREFORE, in consideration of the following promises and commitments, Lowell Cerise, IDWR, and OSC agree as follows:

**AGREEMENT**

1. Statement of Purpose

This document outlines an agreement by Lowell Cerise to allow up to 4.32 cfs of water to remain in the Lemhi River as needed for use in meeting a 35 cfs target flow below a point of diversion known as the L6 ditch during the period commencing on May 15, 2004, and terminating at midnight on June 30, 2004. The agreement will be implemented by the watermaster of Water District 74 (WD 74). The watermaster of WD 74 will adjust the diversion of water right no(s). 74-820 & 74-826 on a daily basis as water is needed to maintain a target flow of 35 cfs of water in the Lemhi River to benefit the migration of chinook salmon.

## 2. Scope of Work

- A. For conservation purposes, Lowell Cerise shall not divert up to 4.32 cfs of water under water right no(s). 74-820 & 74-826 from the Lemhi River when the watermaster for WD 74 determines that additional water is needed to maintain a target flow of 35 cfs below L6. Lowell Cerise will allow up to 4.32 cfs of water to remain in the Lemhi River when needed to meet the 35 cfs target flow for the period of May 15, 2004, through June 30, 2004.
- B. OSC shall pay to Lowell Cerise the sum of eighty dollars and sixty-five cents (\$80.65) per cfs per each day that water is not diverted as compensation for not diverting water under its water right(s) for the period specified.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

## 3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until midnight June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

## 4. General Terms and Conditions

Lowell Cerise agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties' obligations are otherwise outlined in paragraph 2.C. of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

## 5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

Lowell Cerice

Printed Name

Lowell Cerice

Signature

June 30, 04

Date

Karl J. Dreher, Director  
Idaho Department of Water Resources

[Signature]

July 27, 2004

Date

James L. Caswell  
Office of Species Conservation

[Signature]

Date

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## AGREEMENT NOT TO DIVERT WATER FROM THE LEMHI RIVER

This Agreement entered into by and between Paul Fisher and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

### RECITALS

1. Paul Fisher owns a water right(s) designated as no(s). 74-326B. Water right no(s). 74-326B allow(s) the diversion of 5.0 cubic feet per second ("cfs") of water from the Lemhi River.
2. IDWR and OSC desire to maintain a target flow of 35 cfs of water in the Lemhi River below the Lemhi L6 diversion to facilitate upstream migration of chinook salmon.
3. Paul Fisher, IDWR, and OSC desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to Paul Fisher as compensation for not diverting water under his/her water right(s) to enhance instream flows for the benefit of salmon.

NOW THEREFORE, in consideration of the following promises and commitments, Paul Fisher, IDWR, and OSC agree as follows:

### AGREEMENT

#### 1. Statement of Purpose

This document outlines an agreement by Paul Fisher to allow up to 5.0 cfs of water to remain in the Lemhi River as needed for use in meeting a 35 cfs target flow below a point of diversion known as the L6 ditch during the period commencing on May 15, 2004, and terminating at midnight on June 30, 2004. The agreement will be implemented by the watermaster of Water District 74 (WD 74). The watermaster of WD 74 will adjust the diversion of water right no(s). 74-326B on a daily basis as water is needed to maintain a target flow of 35 cfs of water in the Lemhi River to benefit the migration of chinook salmon.



## 2. Scope of Work

- A. For conservation purposes, Paul Fisher shall not divert up to 5.0 cfs of water under water right no(s). 74-326B from the Lemhi River when the watermaster for WD 74 determines that additional water is needed to maintain a target flow of 35 cfs below L6. Paul Fisher will allow up to 5.0 cfs of water to remain in the Lemhi River when needed to meet the 35 cfs target flow for the period of May 15, 2004, through June 30, 2004.
- B. OSC shall pay to Paul Fisher the sum of eighty dollars and sixty-five cents (\$80.65) per cfs per each day that water is not diverted as compensation for not diverting water under its water right(s) for the period specified.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

## 3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until midnight June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

## 4. General Terms and Conditions

Paul Fisher agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties' obligations are otherwise outlined in paragraph 2.C. of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

## 5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

Paul E. Fisher  
Printed Name

Paul E Fisher  
Signature  
6-1-04  
Date

Karl J. Dreher, Director  
Idaho Department of Water Resources

[Signature]  
June 23, 2004  
Date

James L. Caswell  
Office of Species Conservation

[Signature]  
6/14/04  
Date

QAESASALA\cmhi\47dayLemhiagreements.doc

## **AGREEMENT NOT TO DIVERT WATER FROM THE LEMHI RIVER**

This Agreement entered into by and between Alan Bodenhamer and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

### **RECITALS**

1. Alan Bodenhamer owns a water right(s) designated as no(s). 74-746E & 74-738B. Water right no(s). 74-746E & 74-738B allow(s) the diversion of 16.33 cubic feet per second ("cfs") of water from the Lemhi River.
2. IDWR and OSC desire to maintain a target flow of 35 cfs of water in the Lemhi River below the Lemhi L6 diversion to facilitate upstream migration of chinook salmon.
3. Alan Bodenhamer, IDWR, and OSC desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to Alan Bodenhamer as compensation for not diverting water under his/her water right(s) to enhance instream flows for the benefit of salmon.

NOW THEREFORE, in consideration of the following promises and commitments, Alan Bodenhamer, IDWR, and OSC agree as follows:

### **AGREEMENT**

#### **1. Statement of Purpose**

This document outlines an agreement by Alan Bodenhamer to allow up to 6.33 cfs of water to remain in the Lemhi River as needed for use in meeting a 35 cfs target flow below a point of diversion known as the L6 ditch during the period commencing on May 15, 2004, and terminating at midnight on June 30, 2004. The agreement will be implemented by the watermaster of Water District 74 (WD 74). The watermaster of WD 74 will adjust the diversion of water right no(s). 74-746E & 74-738B on a daily basis as water is needed to maintain a target flow of 35 cfs of water in the Lemhi River to benefit the migration of chinook salmon.



## 2. Scope of Work

- A. For conservation purposes, Alan Bodenhamer shall not divert up to 6.33 cfs of water under water right no(s). 74-746E & 74-738B from the Lemhi River when the watermaster for WD 74 determines that additional water is needed to maintain a target flow of 35 cfs below L6. Alan Bodenhamer will allow up to 6.33 cfs of water to remain in the Lemhi River when needed to meet the 35 cfs target flow for the period of May 15, 2004, through June 30, 2004.
- B. OSC shall pay to Alan Bodenhamer the sum of eighty dollars and sixty-five cents (\$80.65) per cfs per each day that water is not diverted as compensation for not diverting water under its water right(s) for the period specified.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

## 3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until midnight June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

## 4. General Terms and Conditions

Alan Bodenhamer agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties' obligations are otherwise outlined in paragraph 2.C. of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

## 5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

ALLEN S. BODENHAMER

Printed Name

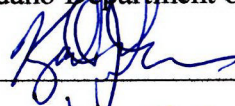


Signature

6-5-04

Date

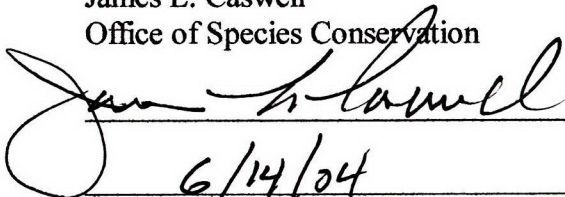
Karl J. Dreher, Director  
Idaho Department of Water Resources



June 23, 2004

Date

James L. Caswell  
Office of Species Conservation



Date

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## **AGREEMENT NOT TO DIVERT WATER FROM THE LEMHI RIVER**

This Agreement entered into by and between Richard Santos and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

### **RECITALS**

1. Richard Santos owns a water right(s) designated as no(s). 74-513. Water right no(s). 74-513 allow(s) the diversion of 3.03 cubic feet per second ("cfs") of water from the Lemhi River.
2. IDWR and OSC desire to maintain a target flow of 35 cfs of water in the Lemhi River below the Lemhi L6 diversion to facilitate upstream migration of chinook salmon.
3. Richard Santos, IDWR, and OSC desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to Richard Santos as compensation for not diverting water under his/her water right(s) to enhance instream flows for the benefit of salmon.

NOW THEREFORE, in consideration of the following promises and commitments, Richard Santos, IDWR, and OSC agree as follows:

### **AGREEMENT**

#### **1. Statement of Purpose**

This document outlines an agreement by Richard Santos to allow up to 3.03 cfs of water to remain in the Lemhi River as needed for use in meeting a 35 cfs target flow below a point of diversion known as the L6 ditch during the period commencing on May 15, 2004, and terminating at midnight on June 30, 2004. The agreement will be implemented by the watermaster of Water District 74 (WD 74). The watermaster of WD 74 will adjust the diversion of water right no(s). 74-513 on a daily basis as water is needed to maintain a target flow of 35 cfs of water in the Lemhi River to benefit the migration of chinook salmon.



## 2. Scope of Work

- A. For conservation purposes, Richard Santos shall not divert up to 3.03 cfs of water under water right no(s). 74-513 from the Lemhi River when the watermaster for WD 74 determines that additional water is needed to maintain a target flow of 35 cfs below L6. Richard Santos will allow up to 3.03 cfs of water to remain in the Lemhi River when needed to meet the 35 cfs target flow for the period of May 15, 2004, through June 30, 2004.
- B. OSC shall pay to Richard Santos the sum of eighty dollars and sixty-five cents (\$80.65) per cfs per each day that water is not diverted as compensation for not diverting water under its water right(s) for the period specified.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

## 3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until midnight June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

## 4. General Terms and Conditions

Richard Santos agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties' obligations are otherwise outlined in paragraph 2.C. of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

## 5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

R A Santos  
Printed Name

R.A. Santos  
Signature

5-24-04  
Date

Karl J. Dreher, Director  
Idaho Department of Water Resources

[Signature]  
June 23, 2004

Date

James L. Caswell  
Office of Species Conservation

[Signature]  
6/14/04  
Date

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## AGREEMENT NOT TO DIVERT WATER FROM THE LEMHI RIVER

This Agreement entered into by and between Gordon Stephenson and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

### RECITALS

1. Gordon Stephenson owns a water right(s) designated as no(s). 74-745 & 74-738A. Water right no(s). 74-745 & 74-738A allow(s) the diversion of 11.98 cubic feet per second ("cfs") of water from the Lemhi River.
2. IDWR and OSC desire to maintain a target flow of 35 cfs of water in the Lemhi River below the Lemhi L6 diversion to facilitate upstream migration of chinook salmon.
3. Gordon Stephenson, IDWR, and OSC desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to Gordon Stephenson as compensation for not diverting water under his/her water right(s) to enhance instream flows for the benefit of salmon.

NOW THEREFORE, in consideration of the following promises and commitments, Gordon Stephenson, IDWR, and OSC agree as follows:

### AGREEMENT

#### 1. Statement of Purpose

This document outlines an agreement by Gordon Stephenson to allow up to 8.1 cfs of water to remain in the Lemhi River as needed for use in meeting a 35 cfs target flow below a point of diversion known as the L6 ditch during the period commencing on May 15, 2004, and terminating at midnight on June 30, 2004. The agreement will be implemented by the watermaster of Water District 74 (WD 74). The watermaster of WD 74 will adjust the diversion of water right no(s). 74-745 & 74-738A on a daily basis as water is needed to maintain a target flow of 35 cfs of water in the Lemhi River to benefit the migration of chinook salmon.



## 2. Scope of Work

- A. For conservation purposes, Gordon Stephenson shall not divert up to 8.1 cfs of water under water right no(s). 74-745 & 74-738A from the Lemhi River when the watermaster for WD 74 determines that additional water is needed to maintain a target flow of 35 cfs below L6. Gordon Stephenson will allow up to 8.1 cfs of water to remain in the Lemhi River when needed to meet the 35 cfs target flow for the period of May 15, 2004, through June 30, 2004.
- B. OSC shall pay to Gordon Stephenson the sum of eighty dollars and sixty-five cents (\$80.65) per cfs per each day that water is not diverted as compensation for not diverting water under its water right(s) for the period specified.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

## 3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until midnight June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

## 4. General Terms and Conditions

Gordon Stephenson agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties' obligations are otherwise outlined in paragraph 2.C. of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

## 5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

Gordon Stephenson

Printed Name

Gordon Stephenson

Signature

May 24 04

Date

Karl J. Dreher, Director

Idaho Department of Water Resources

Karl J. Dreher

June 23, 2004

Date

James L. Caswell

Office of Species Conservation

James L. Caswell

6/14/04

Date

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## **AGREEMENT NOT TO DIVERT WATER FROM THE LEMHI RIVER**

This Agreement entered into by and between Dean Stokes and the State of Idaho through the Idaho Department of Water Resources ("IDWR"), 1301 North Orchard, Boise, Idaho 83706, and the Idaho Office of Species Conservation ("OSC"), 300 North Sixth Street, Boise, Idaho 83702, is made in reference to the following facts:

### **RECITALS**

1. Dean Stokes owns a water right(s) designated as no(s). 74-843. Water right no(s). 74-843 allow(s) the diversion of 3.25 cubic feet per second ("cfs") of water from the Lemhi River.
2. IDWR and OSC desire to maintain a target flow of 35 cfs of water in the Lemhi River below the Lemhi L6 diversion to facilitate upstream migration of chinook salmon.
3. Dean Stokes, IDWR, and OSC desire to formally document their agreement to provide water for migrating salmon during periods of low instream flow.
4. OSC desires to provide funding to Dean Stokes as compensation for not diverting water under his/her water right(s) to enhance instream flows for the benefit of salmon.

NOW THEREFORE, in consideration of the following promises and commitments, Dean Stokes, IDWR, and OSC agree as follows:

### **AGREEMENT**

#### **1. Statement of Purpose**

This document outlines an agreement by Dean Stokes to allow up to 3.25 cfs of water to remain in the Lemhi River as needed for use in meeting a 35 cfs target flow below a point of diversion known as the L6 ditch during the period commencing on May 15, 2004, and terminating at midnight on June 30, 2004. The agreement will be implemented by the watermaster of Water District 74 (WD 74). The watermaster of WD 74 will adjust the diversion of water right no(s). 74-843 on a daily basis as water is needed to maintain a target flow of 35 cfs of water in the Lemhi River to benefit the migration of chinook salmon.



## 2. Scope of Work

- A. For conservation purposes, Dean Stokes shall not divert up to 3.25 cfs of water under water right no(s). 74-843 from the Lemhi River when the watermaster for WD 74 determines that additional water is needed to maintain a target flow of 35 cfs below L6. Dean Stokes will allow up to 3.25 cfs of water to remain in the Lemhi River when needed to meet the 35 cfs target flow for the period of May 15, 2004, through June 30, 2004.
- B. OSC shall pay to Dean Stokes the sum of eighty dollars and sixty-five cents (\$80.65) per cfs per each day that water is not diverted as compensation for not diverting water under its water right(s) for the period specified.
- C. The parties understand that this Agreement is based on circumstances existing today concerning the Lemhi River. The parties agree that, should circumstances require a modification of the parties' obligations, the parties will meet and renegotiate this Agreement in good faith. Notwithstanding provision IV of the "Standard Contract Provisions," the parties' obligations under this Agreement shall continue until June 30, 2004, or until the parties agree to modify or terminate the Agreement, whichever occurs first.

## 3. Term

This Agreement shall take effect upon signature by the parties or on May 15, 2004, whichever occurs first, and shall continue in effect until midnight June 30, 2004, unless revised or terminated in accordance with paragraph 2.C of this Agreement.

## 4. General Terms and Conditions

Dean Stokes agrees to abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Idaho Department of Water Resources," except as the parties' obligations are otherwise outlined in paragraph 2.C. of this Agreement. A copy of the "Standard Contract Provisions, Idaho Department of Water Resources" is attached hereto as Attachment A and incorporated herein by this reference.

## 5. Triplicate Originals

This contract is executed in triplicate. Each of the three contracts with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

Dean Stokes

Printed Name

Dean Stokes

Signature

5-24-04

Date

Karl J. Dreher, Director  
Idaho Department of Water Resources

[Signature]

June 23, 2004

Date

James L. Caswell  
Office of Species Conservation

[Signature]

Date

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RECEIVED  
JUN 21 2004  
DEPARTMENT OF  
WATER RESOURCES

STATE OF IDAHO  
Office of Species Conservation

**DIRK KEMPTHORNE**  
Governor

**JAMES L. CASWELL**  
Administrator

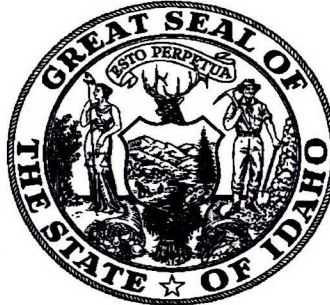
**GREG SCHILDWACHTER, PhD**  
Policy Advisor

**JEFF ALLEN**  
Policy Advisor

**NATE FISHER**  
Environmental Liaison

**TOM DAYLEY**  
Subbasin Coordinator

**Terry A. McRoberts**  
Administrative Assistant



**OFFICE LOCATION**  
300 N 6<sup>th</sup> St

Boise, Idaho 83702

**MAILING ADDRESS**

P.O. Box 83720

Boise, Idaho 83720-0195

(208) 334-2189

(208) 334-2172 (fax)

**SPEED MEMO**

**To:** Bill Graham

**From:** Terry A. McRoberts

**Subject:** Lemhi L6 Non Divert Agreements

Bill,

This is to follow up our phone conversation earlier this week. Enclosed are the original agreements for the Lemhi L6 non diversion that need to be signed by Director Dreher.

Please add the missing **Attachment A** a form called "Standard Contract Provision, Idaho Department of Water Resources."

Please be sure to send us back an original of each of the agreements. Thank you

**Date:** 6/17/04

**Signed**

*Terry A. McRoberts*

**SCANNED**

**MAR 11 2016**



## OFFICE OF SPECIES CONSERVATION

DIRK KEMPTHORNE  
Governor

JAMES L. CASWELL  
Administrator



P.O. Box 83720  
Boise, Idaho 83720-0195

300 North Sixth Street  
Boise, Idaho 83702

# FACSIMILE

**To:** Bill Graham  
IDWR

**From:** Terry McRoberts

**Fax:** 327-7866

**Pages:** Four

**Phone:**

**Date:** 6/15/2004

**Re:** Agreements to not divert

**CC:**

☐ **Urgent**

☒ **For Review**

☐ **Please Comment**

☐ **Please Reply**

☐ **Please Recycle**

● The information contained in this fax may be privileged, confidential or otherwise protected from disclosure. All persons are advised that they may face penalties for sharing this information with unauthorized individuals.

If you received this fax in error, please reply to the sender that you have received this information in error. Also, please destroy this fax after replying to the sender.

### ● **Comments:**

Bill,

Here is a copy of the newest round of agreements. I reviewed the contracts and I don't see any mention of the 15-day payment deadline. However, I do see that the agreement (s) says that a copy of the Standard Contract Provisions, Idaho Department of Water Resources is attached as Attachment A.

Could you please arrange to have a copy of that sent over to me? Perhaps the 15-day deadline is in it.

COPY



RECEIVED  
JUL 13 2004  
Department of Water Resources

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WASDEN

July 12, 2004

Steve Yundt  
Office of Species Conservation  
STATEHOUSE MAIL

Re: Agreement not to Divert Water from the Lemhi River between Lowell Cerise and State of Idaho, et al.

Dear Steve:

Enclosed are three originals of Lowell Cerise's agreement with the State of Idaho not to divert water from the Lemhi River. Lowell's had to be redone because the water quantity was wrong. I am forwarding them to you, Steve, first, so that you can get Jim Caswell's signature on them and then please forward them to Phil Rassier at IDWR so that he can get Director Dreher's signature on all copies. Phil will then send an original back to you for your files, a copy to us for our files, and the second original to Mr. Sager for his distribution to Mr. Cerise.

Steve, I am also including a letter from Rick Sager to Terry with the information she needs to issue the checks to those irrigators who participated in the agreement. Their W-9s are attached. Please forward a copy of Rick Sager's report to Phil as well.

Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Patricia Boehm".

PATRICIA BOEHM, PLS  
Secretary  
Natural Resources Division

/pb  
Enclosures  
cc: (w/out enclosures)  
Phil Rassier, IDWR  
Bill Graham, IDWR

SCANNED  
MAR 11 2016

OFFICE OF SPECIES CONSERVATION



DIRK KEMPTHORNE  
Governor

JAMES L. CASWELL  
Administrator

RECEIVED  
JUL 20 2004  
DEPARTMENT OF  
WATER RESOURCES

P.O. Box 83720  
Boise, Idaho 83720-0195

300 North Sixth Street  
Boise, Idaho 83702

July 16, 2004

Phil Rassier  
Idaho Department of Water Resources  
STATEHOUSE MAIL

Dear Mr. Rassier:

Patricia Boehm with the Attorney General's Office asked us to forward the enclosed (corrected) originals of Lowell Cerise's agreement with the State of Idaho not to divert water from the Lemhi river.

Please have Director Dreher sign the originals and then send an original to Mr. Sager and return an original to us. Please send a copy to Patricia Boehm for the Attorney General's Office.

Also, enclosed is a copy of Rick Sager's (the Water Master for District 74) report for the May 16 through June 30, 2004 time period.

Sincerely,

A handwritten signature in blue ink that reads "Terry A. McRoberts".

Terry A. McRoberts  
Administrative Assistant

/tm

Enclosures

cc: Bill Graham



Water District 120  
Advisory Meeting Minutes  
December 6, 2004

Tim Deeg called the meeting to order at 1: 10 p.m. In attendance were Lewis Rounds, Tim Deeg, Scott Clawson, Stephanie Mickelsen, Dane Watkins, Bill Taylor, Gaylen VanOrden, Neal Powell, Kevin Michaelson, Brian Higgs, Ron Carlson, and Terry Klipfel. Stephanie Mickelsen made a motion to accept the minutes as written. Dane Watkins seconded the motion and the minutes were passed without opposition.

Lewis gave the water master report and initially discussed the proposed change of location for the upcoming annual meeting. Lewis proposed American Falls High School as this years' location. Tim Deeg said there were two areas of the high school available for rental on February 14th. He said the band room and the auditorium were available depending on expected meeting turn out. The seating capacity in the band room is 300. Advisors agreed that the band room would probably suit district purposes.

Lewis suggested rotating the meeting place from year to year. He doubted this would really increase those in attendance, but it would allow people from different locals the opportunity to attend. Idaho Falls and Blackfoot were possible alternate locations.

Lewis discussed 2004 violations. He said there were some grass farmer's who turned on early, but shut off when he talked to them. During the season he got a call from someone who thought that his neighbor was watering without a water right. Lewis said that there was a water right and that a transfer of that right remedied the problem. There were six others in violation; four that were resolved by temporary transfer with permanent transfers in the works. There was one person in violation that had been notified several times that had not responded until this week. Lewis said he would be getting notice of violation from the state. Lewis was unsure of the fine amount, but said there were 151 acres in question. Lewis said there were some phone calls about persons running systems after November 1<sup>st</sup> when they shouldn't be, but when investigated, Lewis found that most were working on cleaning their systems, re-nozzling, etc.

There was some discussion of audits. Lewis provided a spreadsheet with data from those audits. He explained some of the reasons for differences in the data, and said that it was vitally important to have better documentation provided from the districts. There were some problems with doing audits on systems that had been measured within that same year. Lewis explained that the summer and fall rains caused folks to turn off systems early and it was often difficult to find systems operating under the same conditions. He suggested it would work better to do audits on diversions measured this year during next years irrigation season. Brian Higgs suggested that district personnel go with him at the same time to do measurements. Lewis said that while cooperative measurements would make things easier, it would defeat the purpose of an audit.

Lewis explained the balance summary for the water district, mostly answering questions about personnel costs and duties. There was some discussion of inclusions of Basins 25



and 27. Lewis said he did not foresee the need to increase fees for the 2005 assessments. The benefits of working under the umbrella of Water District 1 were talked about briefly. Ron Carlson explained that contracts were based on Federal Contract rates, saying we get many benefits from Water District 1. Tim Deeg said that if we were to go outside of the Department of Water Resources for the same services, costs to the Water District would most likely be much higher. Lewis said there were some travel expense issues to be resolved with IDWR, but they would most likely be taken care of before the next advisory meeting. Lewis said we should be very close on the budget. Lewis turned the meeting over to Tim Deeg by explaining briefly about a water call issue brought by Barry Williams.

Tim Deeg began discussing a proposal presented to Water District 120 by surface water users about a month ago. The proposal was brought about by a hard line position taken by surface users. Tim explained the proposal has been reviewed and analyzed. Basically, Tim said the proposal asks for 150,000 acre-ft. of water with at least 50,000 spilled each year. The proposal does not take into consideration in its averages anything provided by the state. Tim said they have evaluated the proposal and plan on meeting with surface users for discussion in Boise on the 7<sup>th</sup> of December. Tim said he doesn't think the proposal will fly. Twin Falls Canal Company has always wanted assurances that they would receive 5/8 of an inch during dry years. Now, Tim said, they and "others" want more water and possibly for other purposes than simply irrigation. Tim said folks should plan on litigation. He believes that attorneys are driving surface water users. An agreement that more accurately reflects historical deliveries is the desired outcome. Tim said there is some time for negotiation since the stipulated agreement does not expire until the 31<sup>st</sup> of December for Water District 120, and the 15<sup>th</sup> of March for Water District 130. Bill Taylor suggested submitting a proposal to the Director if a settlement is unable to be reached. Tim said he could submit a mitigation proposal to those parties who had potential injury, or assure water under a normal pattern. There was concern on the part of some members that by agreeing to provide more water we would be agreeing that injury was taking place, and we would be opening the door for more demands upon our water. Tim said the model could work for us if certain variables were taken out. Ron Carlson said he had seen the model work in our favor to this point. From Ron's point of view, there is an aberration in the law that is gaining traction. We have two standard's, Ron said. The aquifer is another reservoir, but conditions applied to other reservoirs aren't applied to the aquifer. Dane Watkins asked if the issue would be brought up at the next legislative session. Ron said that Laird Noy has been hired to lobby for Twin Falls Canal Company. Ron said it could be an interesting legislative session.

Neal Powell asked about the counter proposal to be offered at the Boise meeting tomorrow. Tim Deeg said that the probable water supply required for mitigation every year would be less than 35,000 acre-feet. That's on the higher end, Tim said. Tim also said that if credit is not given, things would not work during extended droughts.

Lewis asked about a date for the next advisory meeting. Members agreed to meet again in the DEQ conference room next to IDWR on Tuesday, February 1<sup>st</sup> at 1:00 p.m.



Lewis asked Ron to give his report on the rental pool and water supply situation. Ron said as far as the rental pool being used as a mechanism to supply water for mitigation, the 2003 plan was by far the best. New rental pool procedures are in the works that could be in place for a term of 30 years. The rental pool committee was driven by Chuck Coiner and Leonard Beck, and progress was slow. Karl stepped in to mediate the process. Now we have a set of procedures that the Committee of 9 will vote on in their December meeting. Ron said that a chart would determine the amount of water if any that the Bureau would be able to get for fish flush. There is also a provision in the rental pool for two party agreements. When initially established, Ron said the same amount as what was available in the past should be available for the bureau and irrigators. Leonard Beck shot it down. Ground water users were pretty much left out. The provisions to be voted on allow for the following after canal systems are shut off. This is from approximately 100,000 acre-feet per year of late season accrual:

- 50,000 acre-feet to the Bureau (on top of ESA water)
- 5,000 acre-feet to cover small pumps up and down the river. (They are a pain to administer and very expensive).

New rules pay impacted persons for those impacts from rentals on next years' allocations. Last to fill has been done away with except for a provision if a deal is made with someone and reservoirs don't fill the next year.

Ron said that most snow courses are at 60% of normal. However, the Bear River Drainage is at 105-110% of normal. Ron reminded advisors that we are only 10-15% into our normal water season and said we have really gone down hill since October. On a brighter note, Lewis said soil moisture contents were higher this year than in the past two years. Reservoirs are filling more quickly this year than in the past two years. Ron said this is most likely due to the rain we received during the summer and this fall.

Bill Taylor asked what happened to the "Global Rental Pool". Ron said folks in the lower valley didn't like the idea. Bill also asked about Mitigation Inc. and said he felt they were against the ground water users. Ron said he thought that was a misconception and that Mitigation Inc. had actually gone out on a limb to the point where they could not meet their own obligations. Bill asked what the balance was on the Committee of 9 for upper valley water user representation. Ron said that representation for upper valley water users is actually about 6 to 9. Bill Taylor said that he felt the deck had been stacked against ground water users and says conjunctive management rules should allow for equal access. Ron said that you have to understand the rules of the game. It's not an equity issue, but a "share the pain issue".

Tim Deeg asked if there was other business. Lewis reminded advisors again of the Feb. 1<sup>st</sup> meeting. Stephanie Micklesen had a question about the Nez Pierce Agreement. Ron said without the agreement, there was some danger of this going to the Federal Courts and being decided there. For this reason, he emphasized the need to get rid of the claims



so litigation does not go on for years. In the last three years 2 million dollars in lawyer fees have been spent by Water District 1.

Bill Taylor made a motion to adjourn the meeting. Stephanie Mickelsen seconded the motion and the meeting was adjourned at 3:45 p.m.

Advisor

Sign and

Address

phone

Scott Clawson  
Tim Deeg  
~~Brian Higgs~~  
Stephanie Mickelson  
Dore Watson  
Dore Taylor  
Gayle Carlson  
Neal Powell  
Ken Mickelson

# P.O. Box 438, Rigny, ID 709-1295  
Box 50781 Idaho Falls 523-0800  
T.O. Box 57200 IF 83405 Idaho 83415 517-7400

252 E 100N BLACKFOOT 83221 1854409  
2590 Quigley Rd. Am Falls Id 83211 705-7171

Sign and

Non-advisor

Address

phone

Brian Higgs  
LENN RANOS  
RON CARLSON  
TERRY KLIPPEL

6330 W 33 S I.F. 522-0399



Water District 120  
Quarterly meeting minutes  
August 9, 2004

Tim Deeg called the meeting to order at 1:08 pm. In attendance were Lewis Rounds, Scott Clawson, Craig Evans, John Phillips, Kevin Michaelson, Tim Deeg, Brian Higgs, Bill Taylor, Walter Gay, and Ron Carlson. The minutes were read individually and one small correction was made to the beginning of the third sentence in the second line of the third paragraph. The sentence now begins "An extension of the mitigation agreement is....." Kevin Michaelson moved that the minutes be accepted with the one noted change, Scott Clawson seconded the motion and the minutes were passed without opposition.

John Phillips was introduced to those in attendance. John is the new employee of the East Water Measurement District and Water District 120. John will be responsible for performing most of the measurements in both districts. John will work approximately one half time for the measurement district and one half time for Water District 120. As the measurement district is dissolved and the water district grows, the percentage of time spent working for the different districts will change proportionally.

The new LAN SAT photos were discussed because they had just arrived. Craig Evans asked if we could send a copy to the Bingham Ground Water District.

Ron talked about the current water situation. Ron said without the rain, the river through Blackfoot would have gone dry by now. So far it looks like 2004 will be better for natural flow than the last few years but the storage will be worse. Ron expects the 2004 irrigation season to end with around 400,000 AF left in the system which is slightly better than the 2003 season.

Kevin asked about mitigation water. Ron said that there was still some hope that it could be made available through after the fact accounting. Ron then explained that the rental pool rules are being set for the next 30 years. Ron said that the rules being looked at currently include a table that specifies when the BoR would get water for flow augmentation and how much they could get along with setting price schedules. The table being considered is similar to the one that Ron created for the 2003 irrigation season. Ron further explained that there has been discussion on partially replacing "last to fill" with some sort of payment plan. Craig then asked if a payment plan were implemented and they retained the right to the FMC water, "would the ground water districts get FMC's payment and preference?" To which Ron replied that it would depend on the agreement made between the two parties.

Brian asked Ron about long-term leases and the new rental pool. Ron said that it is possible that some long-term leases could end up Void because of lack of use during good water years.

Tim Deeg gave a short report on where we were at with the mitigation water. Tim said that we are about 12,000 AF short of meeting the obligation for 2004 at this time in



Water District 120. Tim explained that the WD 120 mitigation agreement negotiations are kind of on hold because there is work going on that could result in a larger agreement that would include WD 120, WD 130, and others. Tim warned that with the use of the new ground water model and negotiations with a generally larger scope that it is possible that the obligation for the people in WD 120 could increase beyond the current 28,500 AF. Tim explained that negotiations outside of the current scope of negotiations would have to include A and B Irrigations and Falls Irrigation because so far they have been able to avoid participation. It was also noted that decisions made by the interim legislative committee could have an effect on WD 120 negotiations. Tim then presented the proposed points of interest presented by IGWA and Lynn Tomminoga at the last legislative meeting.

Ron stated that according to the current ground water model it appears that, without a continuation of the drought, the aquifer is in balance. Ron then warned that if the information from the model is interpreted inappropriately it could lead to the question "Does that mean that mitigation is for the full amount pumped?". Tim said that he hoped not! Tim said that he expected that mitigation most likely will be somewhere between 0 and 200,000 Af and that any ESA water should be junior to any irrigation because it is a new use. A model run has been requested that would take into account the effects that meeting ESA requirements may have on storage and spring flows. Tim said that any effort to meet ESA requirements should be used as leverage since the current ESA could be here for the next 30 years.

Tim mentioned that despite several years of negotiations, there are some spring users who are not on board.

Ron said that it is probably no coincidence that there have been 9700 acres converted from ground water to surface water and the amount of water used by those acres is about the same as the amount that Twin Falls Canal Company and North Side Canal Company were short.

If referring to a portion of the IGWA proposal, Ron asked Tim what he thought the Water Management Authority should look like and who should be in charge of such an authority. Tim suggested that the Water Board could do the job but that the proposal was not really intended to answer specific questions as much as it was designed to introduce ideas. Ron suggested that a conservancy district could be formed and that might also work.

Craig asked what the relationship between IDWR and the Water Board was. Ron said that the Water Board was created in 1964 to stave off out of state interest in Idaho water. The board and IDWR merged after a legislative season that restricted the number of departments in Idaho government to 20. When first created the Water Board had its own director and now both IDWR and the board are under the same director. Bill asked if the budgets for IDWR and the board are the same and Ron said that he believed that they still have separate budgets.

Tim then stated that he thought any management authority should not be run by IDWR because IDWR already has the duty of being the regulatory authority and if it was to also be the management authority, IDWR would be regulating it's self.

Ron said that historically, ground water priorities were well to well and that if springs were to be treated like wells then they should have the responsibility to chase their water like a typical well user would have to. He also said that if the aquifer was regulated as a reservoir then it should be available to rent or pay for water in a matter similar to the way the rental pool is used.

Craig said that however this turns out, if there is mitigation required, the domestic users need to be included as participants in that mitigation.

Tim said that it is important to stick with the terms of the Swan Falls agreement and that it could be dangerous to let Idaho Power re-open those negotiations. Ron said that it is dangerous to do anything that enforces the position that we are short in water supply because that could lead to a plan that requires mitigation even on years when there is surplus water.

Bill Taylor made a motion to adjourn and Craig Evans seconded that motion. The meeting adjourned at 3:11 pm.

WATER DISTRICT 120  
Quarterly Meeting  
DEQ Large Conference Room  
900 N. Skyline Dr.  
Idaho Falls, Idaho 82402  
1:00 pm, August 9, 2004

***I. INTRODUCTION:***

***II. READING OF THE MINUTES OF THE MAY MEETING***

***III. WATERMASTER REPORT***

LEWIS ROUNDS REPORT

***IV. CHAIRMAN OF WATERDISTRICT REPORT***

TIMOTHY P. DEEG

***V. WATER SUPPLY AND GLOBAL RENTAL POOL***

RON CARLSON

***VI. IGWA's PROPOSAL TO LEGISLATIVE COMMITTEE***

LYNN TOMINOGA

***VII. OTHER BUSSINESS***

***VIII. AJOURNMENT***



Water District 120 Quarterly Meeting Minutes  
May 10, 2004

The meeting was called to order at 1:15 pm. Kevin Mickelson nominated Dane Watkins to be meeting chairman, Scott Clawson seconded. The motion passed unanimously.

Lewis Rounds gave the Watermaster Report. He indicated the assessments have been mailed except for the \$25 minimum diversion bills. It is expected they will be mailed by June 1, 2004. He also indicated that John Phillips has been hired for Water District 120 and the East Water Measurement District and will start May 17. He has a Masters Degree in Geology.

Lewis also indicated some regulation of sod farms south west of Pocatello took place at the end of March. All were very compliant. A Mitigation agreement was in place for the 2004 irrigation season and negotiations are still taking place on a long-term agreement. The next legislative meeting is scheduled for June 6<sup>th</sup>. Lynn Tominaga indicated the next Snake River legislative meeting is May 21<sup>st</sup> at the Burley Inn. Recharge will be a primary topic of discussion at the meeting.

Lewis also indicated that diversions are running full board now. It does look like it will be a low water year.

Ron Carlson indicated the Rental Pool Rules for 2004 don't necessarily make people happy but they incorporate a lot. The rules provide for 3% of storage allocation to be supplied to the Bureau of Reclamation for flow augmentation, 50,000 acre-feet of water available for surface water diversions, allows for private leases, and no sensible process to get water. Ron indicated that North Side Canal Company said they would supply 40,000 acre-feet for ground water users for 2004.

Ron also indicated there might be a re-iteration of the rules at the May 18<sup>th</sup> Committee of Nine meeting. The price for water is \$9.60 per acre-foot, last year it was \$6.00. With the current requests for water, Wendy indicated they could fill about 60% of a water users request in priority group 1. One of the problems with the rules is that the requests may not be a good indication of what a water user really needs. (i.e.-rent 200 acre-feet if he really needs 100 acre-feet.)

Lewis indicated the stream flow projection on the Snake River @ Heise is 64%. Last year the projection was 67%. Ron also indicated that if the projection was off as much as last year's projection it could be about 55 %. According to Lewis, Willow Creek and Portneuf snow packs are the only ones with more water than last year.

Dane asked Lynn to talk about statewide issues. Lynn said Idaho Power's rate increase would be 17%. Irrigation will be about 25% of the 17%. Irrigation rates will be about what they were last year (4.425¢ KWH). Idaho Power has to purchase a lot of power. Rates will probably increase again next year. Idaho Power's electricity is generated with hydropower (66%) and Natural Gas (35%). Utah Power & Light's electricity is

generated with coal and natural gas (75%) and hydropower (25%). Water conditions play a big factor for Idaho Power.

Lynn indicated the following upcoming meetings:

June 1<sup>st</sup> – Water District 120-negotiation meeting for term sheet in Burley.

June 3<sup>rd</sup> is the Natural Resources Interim meeting in Boise.

May 21<sup>st</sup> – ESPA Interim meeting.

Lynn indicated the interim meeting is a learning process to put together issues, barriers, and financial issues. The power company has indicated their main issue is that recharge should be subordinate to hydropower. The Bureau has indicated they don't necessarily have a policy on recharge, but they don't want to jeopardize Salmon water.

Brian Higgs said he was already measuring for the Bonneville/Jefferson ground water district and that water levels have not rebounded. Scott Clawson also indicated he has not seen water levels rebound between August and April.

Scott Clawson asked Lewis how we track early spring diversions. Lewis indicated he waits for complaints from people. He also indicated he has no control over reservation diversions.

Kevin asked about the Snake River at Blackfoot going dry. Ron indicated there had been some miscommunication with new people. Irrigators did react quickly to restore flows.

It also looks like the City of Blackfoot would not be getting water this year without Twin Falls cooperation. They might need to start negotiations earlier next year.

Brian also indicated that Jeff Martin would be leaving the North Snake Ground Water District by the first week of June.

The next meeting is scheduled for August 9<sup>th</sup> @ 1:00 pm @ the DEQ conference room in Idaho Falls. Scott Clawson moved to adjourn the meeting, Kevin Mickelson seconded the motion and the meeting adjourned at 2:02 pm.

Respectfully Submitted,

Wendy Murphy

ATTENDANCE ROSTER  
WATER DISTRICT 120 QUARTERLY MEETING  
MAY 10, 2004

Ron Carlson  
Lewis Rounds  
Wendy Murphy  
Brian Higgs  
Scott Clawson  
Dane Watkins  
Kevin Mickelson

Telephone:  
Lynn Tominaga  
Tim Luke



## Water District 120 Annual Meeting Minutes February 9, 2004

Tim Deeg called the Water District 120 Annual Meeting to order at 1:10 p.m. Tim said the first order of business was to elect a meeting chairman and secretary. Neal Powell made a motion to elect Tim Deeg chairman and Terry Klipfel secretary. The motion was seconded by Scott Clawson and passed unanimously.

Tim Deeg welcomed members, and talked briefly about meeting notices, explaining that they had been mailed according to Idaho Code. He talked about the purpose of the meeting and described the voting process, stating that unless there were objections, a one man, one vote system would be used. Tim also explained the definition of a Water District. He said as the adjudication process was completed, more basins would be included in Water District 120.

Tim asked Terry Klipfel to read the minutes from last year's annual meeting. After the minutes were read, Lance Gardner made a motion to accept them as read. Richard Line seconded the motion and members voted to accept the minutes as presented.

Tim Deeg asked Lewis Rounds to discuss the 2004 proposed resolutions. Lewis explained that the resolutions are pretty much the same as last year with the date changes. Lewis read and explained each resolution. There was some discussion on the dates that set the fiscal year. Lewis explained why dates had been set as they were, and said there was a resolution which gave the advisory committee the authority to adopt an interim budget between the end of the fiscal year and the next annual meeting. Lewis then explained the budget break down and the IDWR contract. There were some questions and discussion about what services are provided by the proposed budget. Lewis said he would explain further when he gave the report on accomplishments for 2003. One member expressed concern and asked that discussion of the resolutions and budget cease until Lewis could give the report. Tim Deeg asked if there was a motion to continue discussion of the resolutions and budget as planned. Neal Powell made a motion to continue discussion on the resolutions and the budget. Walter Gay seconded the motion. Members voted to continue discussion of the resolutions. After discussion of all resolutions the meeting was turned over to Tim Deeg. Tim talked briefly about the IDWR contract and that advisors for Water District 120 had determined it to be fair and just. Had it not been, Tim said, advisors would have looked elsewhere and always have the option to do so. Tim encouraged members to communicate with their advisors for explanations and input. At this time Tim asked if there was a motion to accept the resolutions and budget as presented. Bill Taylor made the motion, and Stephanie Micklesen seconded it. Members voted to accept the 2004 resolutions and budget as proposed.

Next Tim Deeg suggested a recess for a period of fifteen minutes to determine the composition of the advisory committee. Craig Evans made the motion accordingly, and Lance Gardner seconded the motion. Members recessed for the requested time. Members were grouped according to ground water district.

After re-convening, the Bonneville Jefferson Ground Water District suggested the following members remain as advisors: Bill Taylor, Dane Watkins, and Stephanie Micklesen

Bingham Ground Water District proposed that Walter Gay, Craig Evans, Scott Clawson, and Gaylen Van Orden act as advisors, and proposed Neal Powell as an alternate.



Aberdeen American Falls Ground Water District suggested the following members: Kevin Michaelson, Tim Deeg, Terrell Sorensen, and Richard Mayer (City of Aberdeen). Suggested alternates were Richard Line, and Kirk Atkins (Industrial).

Lance Gardner made a motion to accept the advisors as proposed and Bill Taylor seconded the motion. A unanimous ballot was cast.

Tim Deeg asked Lewis Rounds to give the water master report. Lewis gave an overview of accomplishments for the year, and talked briefly about diversion audits. Lewis reminded members that measurements were done on a three year rotating basis by law and said inventory of diversions is necessary for accurate reporting. Lewis said the goal of audits is to measure 5% to 10% of those diversions measured by the ground water districts.

Lewis discussed the identification of illegal diversions within the district by use of satellite imagery, stating that the satellite generally used did not work in 2003, but that IDWR and the district used imagery provided by an older satellite. Lewis showed an example of an image used in 2003, stating that the resolution wasn't nearly as good as the images used in 2002 and taken by the newer satellite. Within Water District 120, Lewis said there were approximately 640 total acres with potentially unauthorized water use. Generally persons were contacted and informed about questionable acres. A couple of the discrepancies had to be remedied through the transfer process. Lewis also talked briefly about the WMIS database.

Lewis talked about budget considerations, explaining that the budget passed was for \$67,465. Lewis said that the cost per acre-foot to the Water District 120 is about \$0.10. Lewis said there would be a minimum of \$25.00 assessed to non-measured diversions. For diversions being measured, there would be a minimum charge of \$50.00 plus an additional charge of \$0.10 per acre-foot. Lewis said this makes the bills close to the same as when folks were in the East Water Measurement District. Budget expenses for personnel were based on "our best estimate" to share one full-time person with the measurement district, to pay a Water Master for 1/3 of his time, and a secretary for 1/3 of her time. Lewis said the district should have a better idea of personnel needs or costs after a year of operation because personnel will be charging their time directly to a fee account. Lewis explained a break down of the budget and showed the pro-rata assessments by ground water districts and/or other entities.

Next Lewis talked briefly about evapo-transpiration (ET) rates and trends during 2003. He talked about ground water levels and showed slides comparing how levels had changed during the recent drought period. Someone asked Lewis about doing depth measurements. Lewis said the reason they do not often do them is because they are risky. He said they would rather leave these measurements to the USGS, but said that the district does check some. Reservoir levels were discussed. Lewis said that at the time of the meeting, reservoir levels were at 36% compared to the 43% they were at this time last year. Lewis said that snow levels currently are just below 100% of normal for the Snake River basin above Palisades. After further discussion on snow levels, Tim Deeg asked for a motion to accept the water master's report. Neal Powell made a motion to accept the report as presented and Walter Gay seconded the motion. Members voted to accept the report.

Tim gave his report on the stipulated agreement, saying the 2year agreement had expired, but is being extended through 2004. The reduction program has been removed with a credit/debit system used instead. Tim said there is a credit carry forward of approximately 6,142 acre-feet for 2002, and approximately 5,462 for 2003. Compliance to the stipulated agreement in 2003 resulted in the purchase of water through the global rental pool and other leased water rights.

Tim said they are beginning to draft a long-term agreement for 5-10 years that would be modified from time to time based on the best science available at the time of the new agreement. Tim said they had been able to develop a good relationship with surface water users through this process, and stated the longterm plan to supply replacement water is the best mitigation plan. Tim explained some of the problems that ground water users in Water District 130 are having with the aquaculture spring water users , and said it is possible that Water District 120 could be drawn into litigation. He said this is a good reason to have a long-term agreement in place. Tim asked Ron to give for his report.

Ron Carlson wanted to give members an “all encompassing” report of where we are in his discussion about the ingredients of ground water management soup. He described some of the main ingredients of the soup and how they affect the “recipe”. He briefly discussed the history of water management, and the main ingredient of the soup; water. He explained how capitalism, democracy, legal chaos, and government affect the mix. Ron said that Water District 120 brings some order to the chaos and that as part of the district users are in a better position to influence the rules and define goals, i.e. you are in a position to flavor the soup.

Ron turned the meeting to Tim Deeg. Tim introduced Tim Luke and Lynn Tominaga, asking if either had anything to share. They did not. There was no old or new business. Neal Powell made a motion to adjourn the meeting. Stephanie Micklesen seconded the motion and the meeting was adjourned at 4:20 p.m.

Respectfully Submitted,

Terry Klipfel



Finalized  
1/27/04

## **Water District 120 Advisory Meeting January 26, 2004**

At 1:15 p.m. Tim Deeg called the meeting of Water District 120 Advisors to order. Other advisors in attendance were Scott Clawson, Neal Powell, Dane Watkins, Bill Taylor, Gaylen VanOrden Craig Evans, & Kevin Michaelson. Ron Carlson and Lewis Rounds of IDWR, Terry Klipfel, and Barbara Higgs were also in attendance. Tim Luke and Lynn Tominaga attended by conference call.

Tim asked advisors to look over the minutes from the last advisory meeting. Dane Watkins made a motion to accept the minutes as written. Bill Taylor seconded the motion and a unanimous vote was cast. Tim asked Lewis Rounds to give the Water Master Report.

Lewis began by talking about the final order that brings Basin 29 into Water District 120. Lewis said Tim Luke had given him a list of 320 small right holders scheduled for inclusion into the water district. Lewis said that after they had researched them, only 155 would actually be included because some of the diversions or owners were already being assessed by ground water districts.

Lewis briefly discussed audits and comparisons of old data with WMIS data. There were some data discrepancies that were checked over and in most cases resolved. Lewis said they were still looking at a couple of them with data problems. He also said there was a very low percentage of mistakes.

Tim Luke told committee members that a copy of the order to expand Water District 120 had been mailed to most folks, and that copies would be mailed shortly to each water district.

Lewis discussed the proposed budget for 2004 of \$67,465, giving the breakdown. He said numbers were very close to being exact, stating that personnel expenses could increase if IDWR had across the board personnel wage increases. He also said the Water District 120 budget would have to increase as the district encompassed more of the ESPA East Water Measurement District. There was also discussion about a minimum charge for smaller diversions within the water district. Lewis proposed a \$10.00 fee. Neal Powell asked Tim Luke what the minimum charge for Water District 130 water users is. Tim said the minimum for them had been set at \$25.00. Lewis said that last year we had set a minimum of \$30.00, not taking into account the small diversions. There was some brief discussion of some of the smaller diversions that would be excluded. Bill Taylor made a motion to set the district's minimum charge at \$25.00. Dane Watkins seconded the motion and is passed by acclamation.

Advisors discussed opt. outs. Lewis explained there were only about six. He proposed assessing them the same as folks within the ESPA East Water Measurement District. The per diversion charge is expected to be \$50.00 and the per CFS charge \$25.00.



Neal Powell made a motion to accept the 2004 proposed budget. Craig Evans seconded the motion and the advisors passed the 2004 proposed budget by acclamation. There was some discussion about quarterly payments, and setting dates for the fiscal year. Lewis said this would be addressed during discussion of the resolutions. He began by presenting resolutions 1 and 2, asking if there were any additions or deletions. He said the only change in resolution #1 was the date in the introductory paragraph. In resolution #2, the wording, "The Idaho Dept. of Water Resources" would be replaced by the wording, "Lewis Rounds". "To provide" and "services" would be deleted. Neal Powell made a motion to accept the changes on the introductory paragraph, as well as, resolutions 1 & 2. Dane Watkins seconded the motion and it passed by unanimous vote. Discussion on the resolutions continued.

There were no changes indicated by the committee on resolution #3. On resolution #4a, the wording "2004 and 2005" would be changed to read "the 2004 fiscal year".

The first sentence of resolution #4b would read, "The budget for Water District 120 for the ensuing year will be set at this annual meeting in resolution 10." In the second sentence, the word "of" will be added before "appointment". There were no changes to part C. In part D, the wording "and other necessary watermaster expenses" was deleted. Part E will read, "Districts identified herein are expected to fund, at their own expense during the 2004 fiscal year, personnel and equipment necessary for measurement and reporting of diversions within these districts. In part f, "all expenses of the district following this annual meeting" will be changed to, "all expenses of Water District 120 following this annual meeting" and so on.

In resolution #5, "sub-districts created herein" will be changed to read "districts identified herein".

In resolution #6, "Since ground water districts" will be changed to read, "The following ground water districts". The entire last sentence after the words "water rights and water management" will be removed. Item #4 included in the resolution will be changed from "ESPA East Measurement District" to Falls Irrigation.

The first part of Resolution #7 has been changed to read as follows: These districts designated above may have employees who measure and report diversions to the water master of Water District 120 and IDWR. The water master of Water District 120 may therefore appoint employees or agents of these districts as assistant water masters for the purposes of measuring and reporting water use to the water master of Water District 120. In part a, "sub-district" will be changed to "district". In part b, "sub-districts" was deleted. The first five words now read, "Assistant water masters shall cooperate". There were no changes to part c. Part d was changed to read, "Districts will first be given the opportunity to resolve unauthorized diversions or other enforcement matters before action is taken by the water master and IDWR. There were no changes in part e. There were no changes within resolution #8 other than in formatting the last three items to read: a, b, & c.



In discussing resolution # 9, Ron Carlson said it would be beneficial to have a fiscal year ending before the annual meeting. By doing this, the water district can provide results of financial audits. Resolution # 9 fiscal year was changed from "December 1 and ending November 30<sup>th</sup>" to "November 1st and ending October 31". The only change to resolution #10 was to change the due date of assessments to February 28, 2004. In #11, after "the Director of IDWR", "or the water district advisory committee" was added. There were no changes indicated on resolutions 12 and 13. In resolution #14, the words "in accordance with IDWR policy was deleted". In resolution #15 in the second paragraph, "or the sub-districts" was changed to read, "or ground water or irrigation districts". In the third paragraph, the word "cost" was added before "prohibitive". In the last line the minimum charge was changed to \$25.00.

Resolution #16 was added. It reads, "The water district advisory committee shall hereby be authorized to adopt an interim water district budget for the period Nov. 1 through the next annual meeting. Resolution 16 was then added as an amendment to resolution #9 to help alleviate any confusion from what might appear to be out of order.

Neal Powell made a motion to accept the remaining resolutions (3-15) with indicated changes. Dane Watkins seconded the motion and it passed unanimously.

Lynn Tominaga gave a brief update on mitigation that could affect the district. There was some discussion as to whether or not Water District 120 advisors want to get involved with discussions to resolve issues with aquiculture folks. Lynn said that resolution of these issues outside of the courts and legislature is preferable to the high costs of going to court. Advisors wanted to know when the new model scenarios would be available and Lynn said re-calibration should be done before the end of the month.

Tim Deeg gave a brief update on the stipulated agreement saying the agreement was going forward for an additional year. He said they still needed to provide the 28, 500 acre-feet of water. He said some cities were participating, but they hadn't heard from industry yet. He also stated that three ground water districts and Twin Falls are participating. Tim said there was approximately 3000 acre-feet carryover from 2003. He said they were still working with FMC folks, and additional water needed would be sought through the Global Rental Pool. He said the price for water would most likely be high this year.

Lewis gave a quick overview of snow pack percentages and averages as of the meeting date.

Tim asked if there was any old or new business. There was none. Dane Watkins made a motion to adjourn the meeting at 4:40 p.m. Neal Powell seconded the motion and it passed unanimously.



*Lewis' changes here. changed 1/27/04*

**Water District 120 Advisory Meeting  
January 26, 2004**

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Neal Powell made a motion to accept the 2004 proposed budget. Craig Evans seconded the motion and the advisors passed the 2004 proposed budget by acclamation. There was some discussion about quarterly payments, and setting dates for the fiscal year. Lewis said this would be addressed during discussion of the resolutions. He began by presenting resolutions 1 and 2, asking if there were any additions or deletions. He said the only change in resolution #1 was the date in the introductory paragraph. In resolution #2, the wording, "The Idaho Dept. of Water Resources" would be replaced by the wording, "Lewis Rounds". "To provide" and "services" would be deleted. Neal Powell made a motion to accept the changes on the introductory paragraph, as well as, resolutions 1 & 2. Dane Watkins seconded the motion and it passed by unanimous vote. Discussion on the resolutions continued.

There were no changes indicated by the committee on resolution #3. On resolution #4a, the wording "2004 and 2005" would be changed to read "the 2004 fiscal year".

The first sentence of resolution #4b would read, "The budget for Water District 120 for the ensuing year will be set at this annual meeting in resolution 10." In the second sentence, the word "of" will be added before "appointment". There were no changes to part C. In part D, the wording "and other necessary watermaster expenses" was deleted. Part E will read, "Districts identified herein are expected to fund, at their own expense during the 2004 fiscal year, personnel and equipment necessary for measurement and reporting of diversions within these districts. In part f, "all expenses of the district following this annual meeting" will be changed to, "all expenses of Water District 120 following this annual meeting" and so on.

In resolution #5, "sub-districts created herein" will be changed to read "districts identified herein".

In resolution #6, "Since ground water districts" will be changed to read, "The following ground water districts". The entire last sentence after the words "water rights and water management" will be removed. Item #4 included in the resolution will be changed from "ESPA East Measurement District" to Falls Irrigation.

The first part of Resolution #7 has been changed to read as follows: These districts designated above may have employees who measure and report diversions to the water master of Water District 120 and IDWR. ~~Those employees may serve as~~ The water Master of Water District 120 may therefore appoint employees or agents of these districts as assistant water masters for the purposes of measuring and reporting water use to the water master of Water District 120. In part a, "sub-district" will be changed to "district". In part b, "from sub-districts" was deleted. The first five words now read, "Assistant water masters shall cooperate". There were no changes to part c. Part d was changed to read, "Districts will first be given the opportunity to resolve unauthorized diversions or other enforcement matters before action is taken by the water master and IDWR. There were no changes in part e. There were no changes within resolution #8 other than in formatting the last three items to read: a, b, & c.



In discussing resolution # 9, Ron Carlson said it would be beneficial to have a fiscal year ending before the annual meeting. By doing this, the water district can provide results of financial audits. Resolution # 9 fiscal year was changed from "December 1 and ending November 30<sup>th</sup>" to "November 1st and ending October 31". The only change to resolution #10 was to change the due date of assessments to February 28, 2004. In #11, after "the Director of IDWR", "or the water district advisory committee" was added. There were no changes indicated on resolutions 12, ~~and 13, and 14~~. In resolution 14, the words in accordance with IDWR policy was deleted. In resolution #15 in the second paragraph, "or the sub-districts" was changed to read, "or ground water or irrigation districts". In the third ~~line~~paragraph, the word "cost" was added before "prohibitive". In the last line the minimum charge was changed to \$25.00.

Resolution #16 was added. It reads, "The water district advisory committee shall hereby be authorized to adopt an interim water district budget for the period Nov. 1 through the next annual meeting. Resolution 16 was then added as an amendment to resolution 9 to help alleviate any confusion from what might appear to be out of order.

Neal Powell made a motion to accept the remaining resolutions (3-~~46~~15) with indicated changes. Dane Watkins seconded the motion and it passed unanimously.

Lynn Tominaga gave a brief update on mitigation that could affect the district. There was some discussion as to whether or not Water District 120 advisors want to get involved with discussions to resolve issues with aquiculture folks. Lynn said that resolution of these issues outside of the courts and legislature is preferable to the high costs of going to court. Advisors wanted to know when the new model scenarios would be available and Lynn said re-calibration should be done before the end of the month.

Tim Deeg gave a brief update on the stipulated agreement saying the agreement was going forward for an additional year. He said they still needed to provide the 28, 500 acre-feet of water. He said some cities were participating, but they hadn't heard from industry yet. He also stated that three ground water districts and Twin Falls are participating. Tim said there was approximately 3000 acre-feet carryover from 2003. He said they were still working with FMC folks, and additional water needed would be sought through the Global Rental Pool. He said the price for water would most likely be higher this year.

Lewis gave a quick overview of snow pack percentages and averages as of ~~the this~~the meeting date.

Tim asked if there was any old or new business. There was none. Dane Watkins made a motion to adjourn the meeting at 4:40 p.m. Neal Powell seconded the motion and it passed unanimously.