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To: Dave Tuthill	Time: 12:09:04
From: Mark Limbaugh	Date: 05/03/95
Subject: Microsoft Word - RRA1.DOC	
Pages (including cover): 3	

Dave,
Here is the final draft. Thanks for your help.
Mark

WATER DISTRICT NO. 65

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May 3, 1995

Board of Directors
Black Canyon Irrigation District
P.O. Box 226
Notus, Idaho 83656

To the Directors of Black Canyon Irrigation District:

On May 2, 1995, I attended what was to be an informational workshop on the Proposed Acreage Limitations and Water Conservation Rules and Regulations. I came away from that meeting with serious concerns about these proposals as they affect your District and its day to day operations. As Watermaster for Water District No. 65, I believe part of my responsibility is to inform users on the system of any and all challenges to their water rights held or storage space contracted. This situation should be construed as a possible challenge to those important assets. On May 9, 1995, a hearing will be held at the Red Lion - Riverside at 7:00 p.m. to obtain public comment on these proposals, and I urge your District to respond to these rules and guidelines directly. Also in attendance at the May 2 informational forum were Scott Campbell, attorney representing Payette River Water Users, and Sherl Chapman, executive director of Idaho Water Users Association. Those two organizations have at their disposal all the information your District will need in preparing your written response to these proposals. Your written comments will be received by Reclamation until June 2, 1995, and should be sent to the Westwide Settlement Manager, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado, 80225, or in person at the May 9 Public Hearing in Boise. I have taken the liberty of enclosing copies of the Draft Guidelines and Criteria on the Water Conservation Plans associated with the proposed rules and regulations for your information. My comments below are limited to these, as they affect the Water District the most, and include page numbers associated with the Draft Guidelines and Criteria. The proposals dealing with Acreage Limitations set forth by the Reclamation Reform Act of 1992 should be researched through one of the aforementioned organizations and responded to as they affect your District.

From the Water District's perspective, the Water Conservation Plans as described in the Draft Guidelines and Criteria create several problems for other water right holders on the system. Any effort to conserve water and reduce return flows or ground water recharge affects downstream users and ground water pumpers greatly. In my opinion, a great deal of money and time will be spent on these Water Conservation Plans in order to prove what we already know, that decreasing the return flows and ground water recharge through conservation efforts will, over time, be detrimental to downstream rights (pages 5, 21). The Draft Guidelines propose that Districts, such as yourselves, comply with all environmental laws of the United States as well as the Endangered Species Act in the

implementation of these plans, all at District expense. According to the Guidelines, Reclamation will determine the extent of NEPA and ESA compliance at the appropriate level of evaluation (pages 12-13, 24). Also, after a District's Conservation Plan receives preliminary approval, the regional director of Reclamation will publish a "Notice of Proposed Approval" in the Federal Register. This notice shall include an address for obtaining a copy of the Plan and environmental documentation and provide a 45-day public comment period on the proposed approval (page 11). The general public will then have the right to assess the effectiveness of the District's Plan in addressing their own private causes (i.e. Indian Tribes, environmental groups, etc.). Finally, cost-benefit analysis will be necessary on all aspects of the District's Plan to determine the "economic feasibility" mentioned in RRA Section 210(a)(page 4).

Bureau officials mentioned at the May 2 forum that the Reclamation Reform Act lacks the "teeth" to enforce these Conservation Plan requirements; however, many of our contracts for storage space will eventually come up for renewal, and at that time an assessment will be made whether or not the Act has been complied with.

Let me know if I can help provide your District with the documentation necessary to prepare your written testimony in the public hearing process on these proposals. Again, Payette River Water Users and Idaho Water Users Association are also excellent sources of information, and I would encourage your District to contact them as soon as possible. If you have further questions, please give me a call.

Sincerely,

Mark Limbaugh, Watermaster

cc: Mr. Dave Tuthill, IDWR
Mr. Steve Chapman, IWUA
Mr. Scott Campbell, PRWU