

◆ Water District Update ◆

Volume 1 Issue 2

Summer, 1995

Reclamation Files to Change Nature of Use on Reservoir Water Rights in Idaho

On May 15, 1995, the U.S. Bureau of Reclamation filed applications with the Idaho Department of Water Resources to transfer the water rights on all Bureau reservoirs in the State of Idaho to include new beneficial uses within the State of Idaho. The Bureau wants to add conservation storage and conservation from storage in purportedly protecting Idaho fish and wildlife, use of stored water to augment instream flows to purportedly save endangered salmon and use of stored water to augment instream flows to purportedly save endangered mollusks within the confines of the Snake and Columbia Rivers as beneficial uses on the water rights on these reservoirs. The Idaho Legislature approved a temporary permit to use Idaho stored water, through local rental pools, to augment flows in the Snake and Columbia Rivers for a period of four years (Sec.42-1763A), but this permit expires on January 1, 1996. In order for the Bureau of Reclamation to meet the 427,000 acre feet of flow augmentation from the Upper Snake River Basin specified in the 1995 Biological Opinion, and recommended by the NMFS recovery plan, the Bureau wants to permanently alter the water rights to allow for this use in accordance with state law. The Biological Opinion states that the Bureau must be in compliance with state law in accomplishing these releases.

If the Director of the Idaho Department of Water Resources approves such a transfer to include these uses as beneficial within the State of Idaho, the Bureau could continue to augment flows in the Snake and Columbia Rivers using

the uncontracted space in these reservoirs, as well as any space rented or otherwise acquired through "willing sellers". The greatest effect to users within our Water District would be the fact that the Bureau would no longer be subject to last to fill provisions contained in the rental pool rules of procedure. This last to fill provision specifically states that if any stored water is rented for out of basin use, that space is last to fill the following year. This provision protects irrigators using their stored water in basin by giving their space priority to fill first when accounting for the following year's reservoir fill.

Currently, the Bureau of Reclamation pays the Water District, through the rental pool, a \$.50 per acre foot fee to cover expenses incurred in accounting for these releases of uncontracted storage water. In the past, these fees have

A total of 5.2 million acre feet of Idaho reservoir storage water will be affected including Cascade and Deadwood Res.

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been used to cost share new or improved measuring devices on the river, as well as cover other District expenses. If these transfers were to be allowed, the Bureau would no longer be required to pay this fee. The applications for transfer, however, do specify releases "to be announced and controlled by the applicant in conjunction with appropriate state officials...", namely the Watermaster. Also, the applications for transfer of these water rights include a note stating that "no more than 427,000 acre feet of water would be released during any water year..." from all the reservoirs listed in the applications by the Bureau.

As of the date of this newsletter, Payette River Water Users Association is the only protestant to these applications. Formal protests are being taken until June 26, 1995, and must be accompanied by a \$25 fee. These protests should address whether or not the proposed transfers injure other water rights, constitute an enlargement in use of the original right, are consistent with conservation of water resources within the State of Idaho, and are in the local public interest, defined as the affairs of the people in the area directly affected by the proposed transfers. Under Sec. 42-222(1) of the Idaho Code, the Watermaster shall, upon a formal filing of protest to the applications, submit his recommendations as evidence to the Director prior to the Director's final determination. (A copy of this letter of recommendations is printed on page 2 of this issue). A hearing will then be held, but at this time, a date has not been set. Additional information is available from the Watermaster at (208)642-4465.

Watermaster Recommendations on Transfers

Note: The following letter was sent to the Director of the Idaho Department of Water Resources by the Watermaster, Mark Limbaugh, as a direct result of Sec. 42-222(1) of the Idaho Code, requiring Watermaster recommendations on the proposed transfer.

June 12, 1995

Mr. Karl Dreher, Director
Idaho Department of Water Resources
Attn: Jim Johnson
1301 N. Orchard
Boise, Idaho 83720

Gentlemen:

As Watermaster for Water District No. 65, State of Idaho, it is my responsibility to comment on the Applications for Transfer of Water Rights Nos. 4625-28. It is my understanding that the U.S. Bureau of Reclamation is asking, through these applications, to add beneficial uses, to include conservation storage and conservation from storage in purportedly protecting Idaho fish and wildlife, use of stored water to augment flows to purportedly help save endangered Idaho raised salmonids and the use of stored water to augment flows to purportedly help save endangered mollusks within the confines of the Snake and Columbia River Systems, to their existing water rights on Cascade and Deadwood Reservoirs, located within the boundaries of Water District No. 65. According to these applications, a maximum of 427,000 acre feet of stored water from the upper Snake River Basin would be required to augment flows downstream, which agrees with the Biological Opinion issued on March 2, 1995, and was recommended by the NMFS Recovery Plan. As Watermaster for our District, I have reservations concerning the approval of these transfers as they directly affect the water rights of and deliveries to existing water users within Water District No. 65.

Any permanent change to an existing water right is, in and of itself, a major decision. Many factors come into play in determining the future impact such changes will have to existing water users. At this time, you are considering a permanent change to very large and important water rights within our state, those of the Bureau of Reclamation on a number of large storage reservoirs. These reservoirs are the "crown jewels" of the State of Idaho, projects undertaken by our grandfathers and great-grandfathers to bring prosperity and livelihoods to future residents, projects which have had a major impact on this state's economy and communities, projects which miraculously made the desert bloom. Many generations of Idahoans have developed farms and ranches dependent upon water from these great projects. Some of these Idahoans are water users on the Payette River, and are those who will be adversely affected if these transfers are approved to allow out of basin and environmental uses as beneficial uses. Currently, these uses are allowed on temporary authorizations, some legislative, some administrative. But the key word is "temporary".

Flow augmentation has not proven itself of any benefit to endangered salmon runs, let alone the State of Idaho, and should be considered an experiment instead of a beneficial use of Idaho water. Current beneficial use on existing water rights within the state has proven over many years to be a major contributor to Idaho's

economy. For years, efforts have been undertaken to improve conservation of this important resource for future generations of Idahoans. Allowing out of basin use of storage water from our reservoirs on a permanent basis is contrary to conservation of Idaho's water, and should be considered against the local public interest. For example, during 1977, Cascade reservoir accrued only 20,300 acre feet of reservoir fill (out of 298,700 acre feet of space to fill). During that year, most of the uncontracted space, as well as 87,600 acre feet of the conservation pool, was allowed to be used by irrigators due to the tremendous shortage of water. Committing this space to competing uses out of basin will virtually eliminate future irrigation use of this space during extreme drought conditions, and cause extensive hardship to agricultural interests during those years. Priority during extreme drought years should be given to existing beneficial uses within the State of Idaho.

During the past eight years, drought conditions have become the rule rather than the exception in Water District No. 65. Five out the past eight years could be classified as drought years, based on river flows and reservoir fill. Currently, in basin water users are protected from out of basin use of stored water by last to fill provisions designated in our rental pool rules of procedure. If space is leased for out of basin flows, or in the case of the Bureau, uncontracted space is leased for out of basin flows, the next year that space is the last space to fill in the reservoir. Consequently, during a drought year, in basin use is protected as first to fill in the reservoir, with the out of basin user or lessor sharing in any shortage of reservoir fill associated with the drought year. If these transfers were allowed, this last to fill protection of existing storage water users would disappear, as out of basin use would be considered a beneficial use within the state at that point. The importance to existing water users of the last to fill clause in our rental pool rules of procedure for out of basin use cannot be emphasized enough. Some of our users on the Payette depend on their total contracted space practically every year to provide enough water to survive the irrigation season. For example, Black Canyon Irrigation District, just last season, used all but 6,966 acre feet of their storage space, out of a total 241,148 acre feet of storage space. This was a direct result of extremely low natural flows in the Payette River due to drought conditions and higher than average temperatures. As a result of the 1993 flow augmentation from the Bureau of Reclamation's release of 69,600 acre feet from uncontracted space in Cascade Reservoir, all of this uncontracted space was considered last to fill space in 1994. But during the winter of 1994, a shortage of snowpack left Cascade Reservoir less than full. Black Canyon space filled completely, due to the fact that they carried over a large amount of storage water from 1993 and they did not lease any of their storage water for out of basin use in 1993 and were not subject to last to fill provisions. The uncontracted space released out of basin in 1993 by the Bureau, however, only filled to 16,522 acre feet due to last to fill provisions for 1994. The Bureau then released 24,464 acre feet from uncontracted space in Cascade Reservoir for out of basin flow augmentation. This created a total of 77,542 acre feet of uncontracted storage space which is considered last to fill uncontracted space for the 1995 accounting. Other contractors leasing storage water out of basin added 12,773 acre feet of last to fill storage space to this total. If we recalculated all storage accruals for 1995 assuming that 1995 fill was 270,000 acre feet (an average semi-dry year based on historical data) and using 1994 carryover figures to begin the 1995 season, we can expect the following differences in Black Canyon Irrigation District's storage accounts, as well as other contracted and uncontracted storage space in Cascade Reservoir, assuming both current last to fill provisions and the effect of no last to fill provisions:

	<u>With Last to Fill</u>	<u>Without Last to Fill</u>
Black Canyon Irr. Dist.	227,539 acre feet	185,616 acre feet
Other Contracted Space	59,761 acre feet	51,718 acre feet
Uncontracted Space	<u>261,966 acre feet</u>	<u>311,932 acre feet</u>
1995 Maximum		
Cascade Reservoir Level	549,266 acre feet	549,266 acre feet

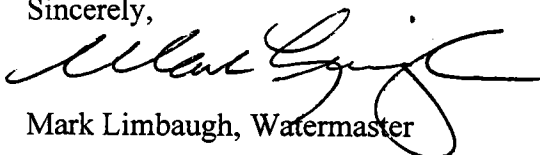
Elimination of last to fill provisions for out of basin flows would take storage water away from Black Canyon in order to share the limited fill with out of basin users, namely the Bureau of Reclamation. The fact that Black Canyon Irrigation District would have been shorted about 42,000 acre feet of storage water if last to fill provisions were not in place might have led to extensive hardships to irrigators supplied by Black Canyon Irrigation District. If these applications are to be considered, certainly last to fill provisions outlined in our rental pool's rules of procedure should remain in force for any out of basin use in order to protect existing water users within the State of Idaho.

Water District No. 65 operations will also be adversely affected if these transfer applications are approved. The past several years, the Bureau of Reclamation has paid the Water District, through the rental pool, a \$.50 per acre foot fee to cover any and all costs associated with accounting for flows out of basin. In the past, these funds have also been used to construct and improve measuring devices on the river through a cost share program offered within the Water District. Allowing the Bureau to flush all water accruing to uncontracted space through the system during peak irrigation use creates many accounting problems which must be addressed by the Water District. The requirement that these out of basin flows continue to pay the appropriate fees and be accounted for through our rental pool should be specified as a prerequisite if these applications are to be considered for approval.

Many water users pump from the Payette River but are without storage space in the reservoirs. Until a few years ago, these users pumped uncontracted stored water provided as additional flows to the river. When the uncontracted space was designated for flow augmentation, these pumpers were required to rent stored water from the rental pool to complete their irrigation seasons. During drought conditions, these pumpers might not be able to rent the necessary stored water from the rental pool, as storage space holders would be reluctant to lease water during those times. The Bureau currently considers approximately 19,900 acre feet in Cascade Reservoir as committed space to industrial, municipal, or irrigation needs. In the recent past, however, the Bureau has used this space to absorb their portion of evaporation charges for Cascade Reservoir. In considering any change in use of this uncontracted space, a provision to require the Bureau to annually lease a portion of this committed space to the rental pool for these pumpers to rent would be appropriate considering the competing uses of stored water, previously used for irrigation, described in these applications for transfer.

The above comments are but a few of the major impacts to existing water users within Water District No. 65 if these transfers were to be allowed by the Department. Again, the permanent nature of these changes suggest many more far reaching and devastating impacts to future water users and the economy of the State of Idaho. If these flows out of basin for flow augmentation are to continue, my suggestion is that the State provide temporary provisions through local rental pools, and assess the impacts and beneficial use of stored water used in this manner on a periodic basis. It is my conclusion to advise you to disallow the permanent transfers of these water rights as the applications read at this time, based on the aforementioned impacts to water users within our District. If you have further questions, or if I can be of assistance to you in dealing with this complicated decision, please do not hesitate to call me.

Sincerely,



Mark Limbaugh, Watermaster

Water Conservation Rules: Storage Users Comment

The Bureau of Reclamation held a hearing on May 9, 1995, in Boise to accept comments on the proposed rules and regulations concerning acreage limitations and water conservation plans. Among participants in the hearing process was Scott Campbell, representing Payette River Water Users Association. Mr. Campbell, an attorney for Elam and Burke of Boise, filed objections to these proposed rules and regulations, as well as the guidelines and criteria proposed to be used in the development of water conservation plans within the District. These plans are required of irrigation districts and companies using storage water from Bureau facilities, such as Cascade and Deadwood Reservoirs.

Idaho Water Users Association Executive Director, Sherl Chapman, also testified against the proposed rules, as they relate to acreage limitations and water conservation plans. On the acreage limitation proposals, revised definitions relating to the definition of a lessee in the rules could include Idaho farmers that have beet, potato, or other commodity contracts with food processors and subject all their acreage to full cost pricing for water. Also criticized was the new rule that increases the levels of reporting for districts entering into "partnership" arrangements with the Bureau, claiming the intent of these arrangements is to make more water available for environmental purposes.

The water conservation rules and regulations, as well as the guidelines and criteria proposed, were hotly contested by both water user associations. The Watermaster of Water District No. 65 also objected to these rules as they pertained to water users on the Payette River (a copy of the Watermaster's comments can be obtained from the office in Payette). Among the rules are requirements that irrigation districts and companies analyze water management or environmental problems and concerns within the hydrologic basin or basins in which a district or company operates. Also a requirement that the district or company comply with all National Environmental

Policy Act (NEPA) regulations, and fund the entire environmental analysis. The costs associated with this requirement would certainly make a financially devastating to most of the irrigation districts and companies within our Water District. Penalties for non-compliance were not specifically addressed, however, the rules clearly state that if a district or company does not conform to the water conservation rules, the Bureau may withhold drought relief funds, drought assistance, loans, or grants and limitations

placed by the Bureau relating to change in nature of use or place of use of project waters.

Many of the irrigation districts and companies within the Water District have also commented on these proposals, citing the problems mentioned in this article. Copies of the Idaho Water Users Association testimony, as well as the testimony of the Payette River Water Users Association representative, may be obtained from the Watermaster at (208) 642-4465.

Idaho Water User's Assn. Report

Idaho Water User's Association reports several interesting developments in their June newsletter. Sen. Slade Gorton (R-WA) introduced S-768 to reform the Endangered Species Act on May 9, 1995. "My legislation favors incentives over mandates", Sen. Gorton stated. Elements of the bill include reforming the process of listing endangered species, allowing more public participation, increasing the role of the States, limiting the effects of private property applications, and insuring that the ESA does not automatically supersede other laws and treaties. Sen. Dirk Kempthorne (R-ID) is holding field hearings on the Act, and has indicated he will introduce his own version of the ESA in the near future. Also, the House is drafting ESA legislation as well, with a draft version due on June 28.

In *O'Neil v. United States*, the Ninth Circuit Court of Appeals has rejected westlands water district's attempt to enforce full contractual deliveries under its long term contract with the Bureau of Reclamation. Its contract provided that westlands would receive 900,000 acre feet annually subject to an exemption limiting the U.S. liability for shortages caused by "errors in operation, drought or any other causes." In 1990, the Sacramento River winter chinook runs were listed as a threatened species under the ESA. NMFS issued a Biological Opinion that continued operation of the project in 1992-93 would likely jeopardize the species. In 1993, westlands was notified that they would only receive 50% of their contractual water supply. A motion was then filed to enforce the contract. On appeal, the Ninth Circuit found that "any other causes" of shortage under the contract included situations where a reduction is mandated by statute. Concern has been expressed that this interpretation of the ESA falling under the "any other causes" section of the contracts might allow the federal government to take irrigation water supplies without compensation to Bureau contractors. IWUA points out that while westlands contracts are water service contracts, clearly different from spaceholder contracts typical in Idaho, many of the spaceholder contracts contain similar language to that quoted by the Ninth Circuit. It is unclear as of yet whether the Circuit Court's decision will be appealed.

In other news, the U.S. House of Representatives passed the Clean Water Act, H-961, by a vote of 240 to 185. Environmentalists mounted a major effort to defeat the bill claiming that this was a "dirty water bill", and hurt the environment.

Payette River Water User's Assn.: "Protest Bureau's Change in Use"

According to the Payette River Water User's Association President Bob Henggeler, all water users dependent on stored water at one time or another should file a protest on the proposed transfers of the Bureau of Reclamation's water rights on all of the reservoirs in the State of Idaho to include environmental uses, both in and out of basin as beneficial uses. These transfers include the water rights on both Cascade and Deadwood Reservoirs, located within our Water District. Henggeler stated that these protests should be filed before the June 26, 1995, deadline for formal protests with the Department of Water Resources, 1301 N. Orchard, Boise, Idaho 83720. A \$25 protest fee must accompany the protest for it to be valid.

Scott Campbell, PRWUA attorney, says that protests must meet certain criteria for them to be considered valid. A

protest must address whether the proposed change in use injures other water rights, constitutes an enlargement of the original water right, is consistent with conservation of water resources within the State of Idaho, and is in the local public interest.

Also, according to Campbell, PRWUA will file a motion for summary judgment on the Nez Perce lawsuit, probably before the end of July, alleging that the Indians' claims have no legal basis for the instream flows sought by the lawsuit.

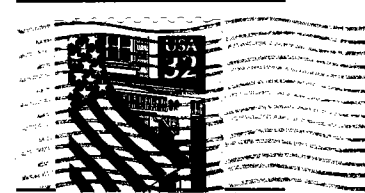
Mr. Campbell testified before the House Subcommittee on Water and Power on June 15, 1995, for the proposed transfer of Bureau facilities to non-federal ownership. A copy of his testimony is available at the Payette office. He was invited at the request of Congresswoman Chenoweth, and represented PRWUA before the Committee.

Dreher Chosen as IDWR Director

On April 7, 1995, Mr. Karl Dreher was named by Gov. Batt as the new Director of the Department of Water Resources for the State of Idaho. Dreher replaces the former Director, Keith Higginson, who retired in May. Mr. Dreher was head of engineering for the Northern Colorado Water Conservancy District and has served in that capacity since 1986. Mr. Dreher is widely published in the engineering field and has been involved in environmental, engineering, economic and financial evaluations for reservoir projects, hydroelectric power generation, flood control, and in the water supply circles for many years. He holds a Masters in Civil Engineering from Colorado State University.

Water District Update

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❖ Water District Update ❖

Volume 1 Issue 3

Water District No. 65

Mark Limbaugh, Watermaster

Fall, 1995

1995 Payette River Operations Result in Large Storage Water Carryover

The 1995 irrigation season is winding down to a close next month, but Cascade and Deadwood Reservoirs

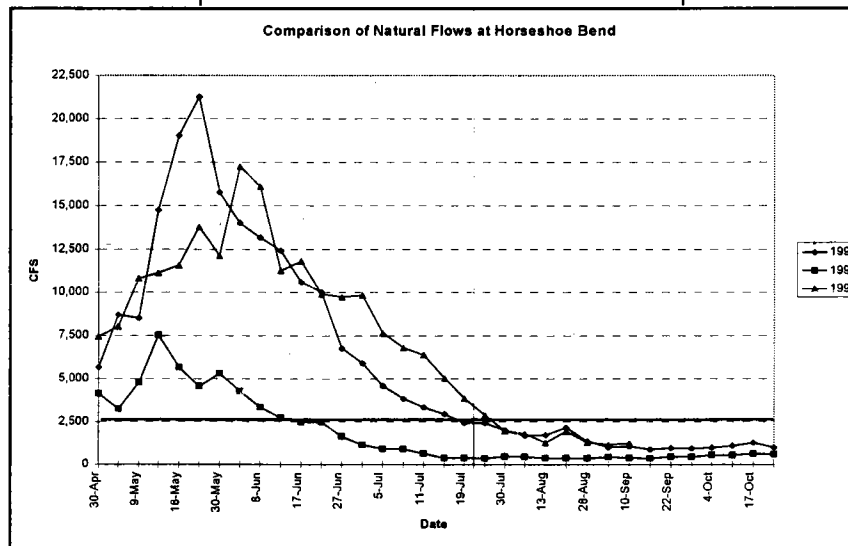
don't show it. Levels of Cascade and Deadwood rival those of past mid to late summer levels. As of September 20, Cascade Reservoir is at the 583,525 acre foot level (active capacity), and Deadwood Reservoir is holding at 126,020 acre feet, close to the new fall flood control level (see Flood Control article inside this issue). As we all are aware, this summer has been a mild one, with

higher than normal natural flows in the river. The chart above shows the natural flows in the Payette River at Horseshoe Bend for the last three years. The solid line at 2,500 cubic feet per second (cfs) is the level of flow when storage water must be used to satisfy all irrigation rights in the river downstream. As this chart illustrates, natural flows drop every year to a level where storage water is necessary for all irrigators to divert their water right. During 1993, storage water was drawn on July 19, considered a normal timing for irrigation demands. In 1994, a dry, hot summer developed early, and storage water was necessary by June 12. The chart shows the natural flow in 1994 as being extremely short as compared to 1993 and 1995. This year,

1995, storage water was not needed until July 28, somewhat later than the normal timing experienced in past irrigation seasons. This has allowed us to

ering the 3% operational loss projected by the Water District for the entire year. Evaporation charges on Cascade and Deadwood Reservoirs, as of September

20, were running well below expected levels. The evaporation rates on the reservoirs are calculated by the State of Idaho using an evaporation pan at Cascade. These rates are then used to calculate daily evaporation on the reservoirs, which is then charged against all storage space in the reservoir, including irrigator's space as well as the Bureau of Reclamation uncontracted space. Last year, these



carry water in our reservoirs for a much longer period of time during the summer months, and conserves much of this storage water for future use next year.

As of September 20, 1995, operational loss on the river, that is the amount of storage water wasted through the system in meeting the needs of irrigators on the Payette, was registered at 1.8%. This amount is quite low, consid-

charges had a major impact on the usable supply of storage water in the reservoir. This year, because of the availability of natural flow for a longer period, evaporation charges lower.

In summary, carryover storage water in the reservoirs within Water District No. 65 is higher than in the past ten years. This has been accomplished by conservation of storage water through watermaster control of releases from the reservoirs and a longer period of natural flows in the river. High carryover levels have also given irrigators the option of leasing storage space for both in and out of basin use during 1995 as a beneficial use of their storage rights.

Contact the Watermaster for additional information on 1995 operations.

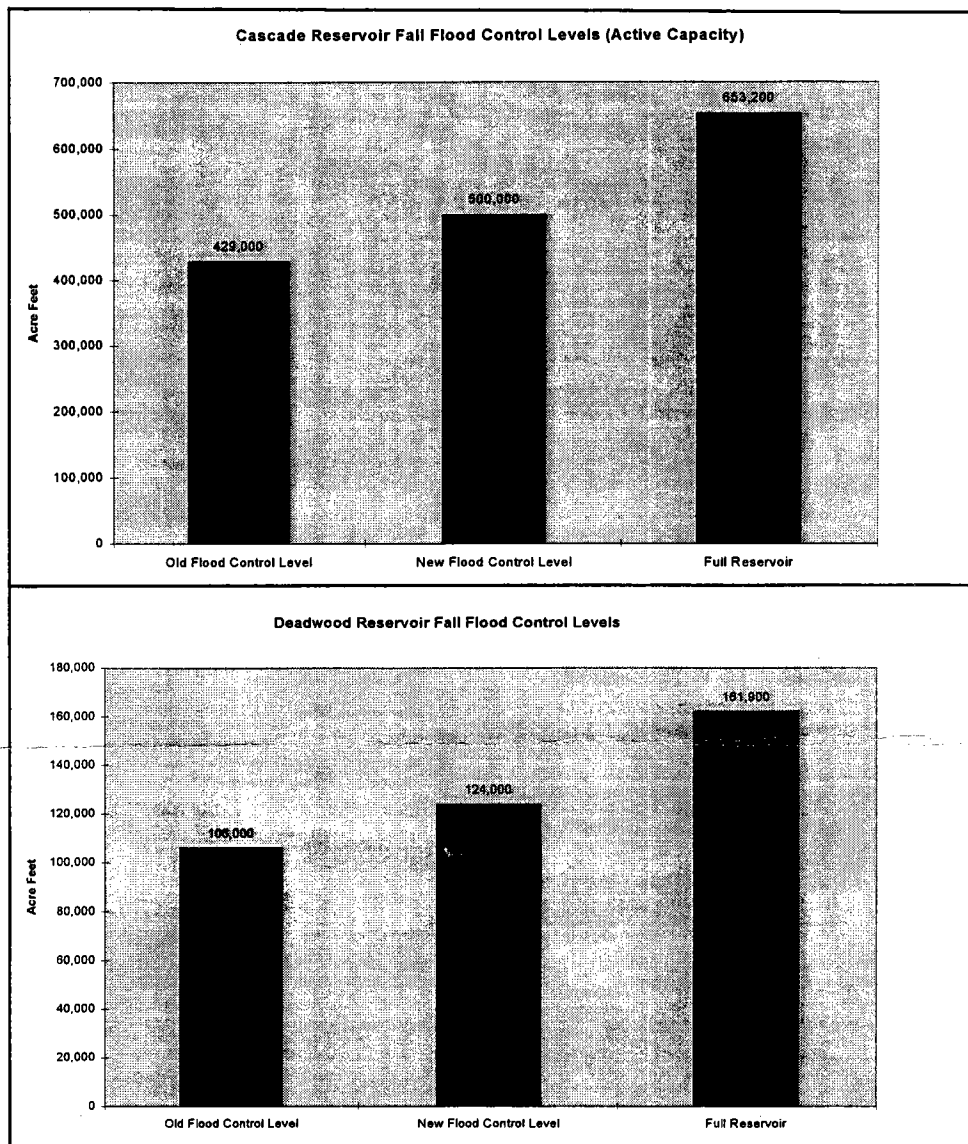
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Bureau Proposes New Fall Flood Control Levels

The Bureau of Reclamation has proposed a change in the flood control operation of Cascade and Deadwood Reservoirs in response to Payette River Water User's Association's push to review current flood control criteria. Both Cascade and Deadwood Reservoirs' maximum fall carryover levels have been raised, which allows storage holders the opportunity to carryover more storage water into the next year (see charts at right). Due to the need for flood control on the Payette, flood control criteria was reviewed to allow for a 10-day storable volume during major flood events occurring in two consecutive years.

In raising the flood control levels, the refill potential of these reservoirs is raised as well. Data gathered in formulating these flood control levels indicate that for the four years Cascade Reservoir did not fill, 1977, 1987, 1992, and 1994, all but 1977 would have filled if the new flood control levels had been in effect. According to Bob Henggeler, president of the Payette River Water Users, this is a marked improvement in the management of the two major storage reservoirs within the Water District for the storage holders. "These changes show what can be accomplished if we all work together. In my opinion, flood control levels would not have been raised had not Payette River Water Users and the Water District urged this review," Henggeler stated. According to Henggeler, the Scanlan Report, commissioned by the Payette River Water Users and the Water District, pointed out that the flood control space evacuated in previous years by the Bureau of Reclamation under the old rule curve was excessive given past year's runoff data. At the joint meeting held by the Water District and the Payette River Water Users to review the new levels, Keith Anderson, co-author of the Scanlan study, indicated that the new flood control levels were much



more realistic in preparing these reservoirs for the possibility of a major flood occurrence without endangering carryover capabilities or refill potential.

As indicated in the above charts, the new flood control criteria raised carryover levels by reducing the space requirement in both reservoirs from 280,000 acre feet of winter flood control space to 190,000 acre feet. This space is split between Cascade and Deadwood Reservoirs 80% and 20%, respectively. The new space requirement of 190,000 acre feet is, according to the Bureau's analysis, adequate to store all available inflows

during two back-to-back historic winter floods of record (December, 1964). These flood events were considered to be 25- to 50-year occurrences.

Flood control measures on the Payette River are informal and designed to keep maximum flows at Horseshoe Bend at or below 12,000 cubic feet per second, although it was brought out that regulation of flood flows at this level is not always possible even when storing all reservoir inflows, due to the unregulated natural flow from the South Fork of the Payette.

Contact the Watermaster for additional information on flood control.

Water Users - Bureau Agree to One-Year Extension

A stipulation signed by all but five of the protestants to the Bureau of Reclamation's applications for transfer of water rights on all the Bureau storage facilities in Idaho was reviewed by Idaho Department of Water Resources Director Karl Dreher. The stipulation states that "...the protestants and intervenors will not oppose the Bureau's release of up to 427,000 acre feet of storage water from Idaho during calendar year 1996...", if the Bureau agrees to engage in good faith negotiations, prior to February 1, 1996, to develop alternatives to the permanent application to change the nature of use on Idaho storage water rights. It has been suggested that these alternatives include a new provision in Idaho law by the 1996 Idaho Legislature to allow such flows to exit Idaho on a limited basis, or until the current Biological Opinion issued by National Marine Fisheries Service expires sometime in 1998, without a permanent change in the water right. Joint status reports must be submitted to the Director of IDWR on October 15, 1995, December 1, 1995, and January 15, 1996, according to the agreement. The stipulation states that all water made available for the purpose of flow augmentation shall be "...obtained only from willing lessors through local rental pools...", and that last to fill priorities of local rental pool rules shall not be affected by this stipulation. Such flow augmentation shall also be reviewed by the Director of IDWR so as to maintain that the water used to augment flows for the endangered salmon be "... a part of a regional coordinated effort to enhance salmon migration, and that other parties are making a proportional contribution to solving the salmon migration problem...".

In the stipulation, the Bureau maintains its longstanding commitment to the 300,000 acre foot minimum pool in Cascade Reservoir.

Director Dreher then issued a

show cause order to the five protestants who did not sign the stipulation. All five agreed to sign after the show cause order was issued and on September 19th, Director Dreher issued the interlocutory order approving the stipulation as filed.

In another action, the Committee of Nine, the official advisory committee for Water District 01, on the Snake River, has filed a sixty-day notice of intent to sue the U.S. Government for violations of the Endangered Species Act, referring to damages which will be caused to them if the Recovery Plan, along with the Biological Opinion, filed by National Marine Fisheries Service, are adopted as policy.

"NMFS has proposed, and the Bureau has adopted, a course of action that improperly relies on flow augmentation," stated Claude Storer, Chairman of the Committee of Nine. "In addition, they are looking at the reservoirs that provide water for our irrigation projects as the source to

provide the water", stated Storer. In a press release, the Committee of Nine indicated that NMFS has required 427,000 acre feet of stored water be provided annually from the upper Snake through 1998, and that NMFS has also provided that the Bureau initiate consultation on the operation of its reservoirs if this amount cannot be provided. They maintain that this could result in NMFS attempting to control federal reservoir operations to aid the endangered salmon. Storer contends that these policies are misguided. "To save the salmon, the government must address the real problems that lie downstream." Idaho Water Users' Coalition for Idaho Water also contends that downstream interests prevent changes in the operation of dams on the lower Snake and Columbia which would minimize or reduce the need for flow augmentation waters from Idaho.

These events are being monitored by Payette River Water Users' attorney, Scott Campbell.

Fish Flows to Start in December

On December 10, 1995, the release of 145,000 acre feet of stored water from Cascade, Deadwood and the Lake Reservoir Company will begin. The release of this water should take approximately seventy-five days, according to Rick Wells of the Bureau of Reclamation. The stored water is to replace flow augmentation releases from Brownlee Reservoir in August of 1995. The Bureau pays an administrative fee to the Water District to move any uncontracted storage water out of basin, and rents the balance of the stored water from the local rental pool. Both the Bureau and lessors to the rental pool for out of basin use are subject to last to fill provisions of the rental pool rules. This means that stored water used within the Payette River Basin will get first priority when the reservoirs fill in the spring of 1996. Storage space used for out of

basin use then shares in whatever runoff is left over. As of September 15th, 60,086 acre feet of this flow augmentation water is rented from irrigation interests through the rental pool, and 84,914 acre feet will come from uncontracted space the Bureau of Reclamation holds in these reservoirs.

Watermaster control of these releases is required at this time to ensure the accurate accounting of stored water released. Given current reservoir levels, the probability of reservoir refill is high, even after the flow augmentation releases. According to Rick Wells, Bureau hydraulic engineer, assuming a level in Cascade Reservoir of 435,000 acre feet after flow augmentation releases, the probability the reservoir will fill completely in 1996 is 87%. The same 87% probability of refill is true of Deadwood Reservoir, given a carryover level of 125,000 acre feet into the fall and a 50 cfs outflow during the winter.

Watershed Advisory Group to be Formed for the Lower Payette River

A meeting will be held on Thursday, September 21, 1995 to discuss the formation of a watershed advisory group for the lower Payette River. Under Senate Bill No. 1284, all water quality impaired segments of Idaho rivers, one of which is the lower Payette from Black Canyon Dam to the confluence with the Snake River, may be monitored to develop maximum daily load criteria for the improvement of water quality. It has been suggested that the Watermaster for Water District No. 65 be asked to serve on this committee.

Senate Bill No. 1284 was passed during the 1995 Idaho Legislature to bring the State into compliance with the Federal Clean Water Act. The law designates the Idaho Department of Health and Welfare, Division of Environmental Quality to implement the new standards. The watershed advisory group could

play an important local role in the standards set for the lower Payette, as well as future water quality efforts. Having the Watermaster serve on this group ensures the representation of irrigator's interests in these discussions.

At the September meeting, a review of Senate Bill No. 1284 will be held, followed by a presentation by DEQ on the implications of the law on agriculture and industry as to the setting of maximum daily loads and the future needs of monitoring this segment of the Payette. The Idaho Soil Conservation Commission will then give the status of on-going water quality programs. Mark Harrison is scheduled to give the history and activities of the Lower Boise River watershed group. Finally, a group discussion of the formation of the lower Payette River watershed group is on the agenda to complete the meeting. The Watermaster will report on the results.

IWUA Summer Law Seminar Held

On June 23, 1995, the Idaho Water Users Association held its annual summer Water Law and Resource Issues Seminar in Sun Valley, Idaho. The Watermaster attended this seminar, which dealt with a multitude of issues and law pertaining to the Water District. Among the topics presented and discussed were the Snake River Basin Adjudication, federal water issues, conjunctive use, water quality, various legislative issues relating to Idaho water law, and the salmon issues and ESA concerns. Speakers presenting these topics included Charles McDevitt, Chief Justice, Idaho Supreme Court, John Keys, III, Bureau of Reclamation, and Wallace Cory, Idaho DEQ Administrator.

Water District Update

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