



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

April 5, 1995

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

JAY HULET
HC 79 BOX 2020
MURPHY ID 83650

RE: Sinker Creek Stockwater Rights

Dear Jay:

This past few weeks, we have discussed the stockwater diversions from Sinker Creek which occur during the non-irrigation season. As promised, I am offering a discussion of those diversions with respect to their regulation. This letter is not intended to address any objections you may have toward the recommendation of stockwater rights in the Snake River Adjudication.

Also, this letter will offer possible options to the current practice of filling Nahas Lake with springtime flows passed through Hulet Reservoir. Each option presented will require some effort on the part of the involved parties before it may be implemented.

Wintertime or non-irrigation season diversions from Sinker Creek have not historically been actively regulated. Besides the stockwater diversions made by Joyce and Nahas Ranches, storage diversions are made by you into Hulet Reservoir and by Nahas Ranch into Nahas Lake. The two winter diversions to storage, along with the Nahas Ranch stockwater right, were decreed in 1981. The Joyce Ranch winter livestock diversions are neither licensed nor decreed rights. These rights are based on beneficial use, and are considered valid to the extent they may be verified.

During active delivery periods, the Watermaster may deliver only those rights which are decreed, licensed or permitted. Rights which are based on beneficial use may not be delivered by the Watermaster, but might be diverted by the water user during inactive delivery periods, as flows are available.

Joyce Livestock filed a claim in the Snake River Adjudication for wintertime diverted stockwater. This claim was recommended in the Basin 57 Director's report. The claim has not yet been decreed, but continues to be diverted by Joyce Livestock during inactive delivery periods, primarily in the winter months. In correspondence to you in 1992, Mr. Higginson stated that it is not unusual for stockwater to remain in irrigation ditches through the winter. This was a general statement which did not take into account the non-decreed status of the Joyce rights. However, as long as the Sinker Creek Watermaster is not on active duty, it is not considered unreasonable for Joyce Livestock to make winter stockwater diversions.

However, in 1992, and again this year, you have expressed concern that winter stockwater diversions from Sinker Creek by Joyce Livestock have decreased the available naturally occurring flows from reaching Nahas Lake, thus requiring the releases through or from your reservoir. You stated to me that you had calculated that the amount of stockwater diverted by Joyce Livestock during the early spring was roughly equivalent to the amount required to fill Nahas Lake.

With the headgate to Hulet Reservoir closed, the naturally occurring winter flows which remain in Sinker Creek are minimal. Leaving all available flows in the channel may or may not significantly increase winter inflows to Nahas Lake. Experience has shown that the volume available at Joyce Ranch and the volume available at the Nahas diversion may not be the same, due to natural variation in creek flows.

You also stated that Joyce Livestock has been using a portion of the wintertime diverted flows for irrigation. You are correct in your assertion that this exceeds the stockwater use which has been claimed. At this time, no irrigation diversions from Sinker Creek are allowable before April 1 of each year.

If you feel that closing winter stockwater diversions in January or earlier would have a positive impact on the winter flows to Nahas Lake, or if improper diversions are occurring, the Watermaster must be called to service. Joyce Livestock diversions could then be closed in order that all available flows remain in the creek channel. If it could be determined that flows to Nahas Lake increase accordingly, the Joyce diversions would remain closed. If inflows to Nahas Lake did not increase, the Watermaster might determine that the call based on naturally occurring flows was futile. In that event, a controlled fill of Nahas Lake could be initiated, or the Watermaster could go back on inactive status, thereby allowing stockwater diversions to be temporarily re-opened. If unauthorized diversions for irrigation continued to be a problem, the Watermaster may remain on duty for as long as necessary.

For the past few years, the Sinker Creek Watermaster has been appointed on a year-round basis, but remains on inactive status until called to service. The call to place a Watermaster on active duty usually comes from the water users at the start of the irrigation season. On Sinker Creek, the call for delivery has been occurring in February or March, when Nahas Ranch requests a controlled fill. At that time, the Watermaster is placed on active duty by IDWR for purposes of assisting in the fill procedure. An earlier call for natural flows to fill Nahas Lake would be appropriate either from you or from Nahas Ranch.

A second option is to partially fill Nahas Lake beginning November 1 of each year, while the Sinker Creek channel is still wetted. For example, option #2 might provide that the Hulet Reservoir headgate be left open from November 1 through mid-winter, until Nahas Lake reaches a specified level or until channel icing becomes a problem. In this manner, late winter natural flows could continue to be stored in Nahas Lake and would not be lost to the Snake River. The Watermaster would remain on duty until the Hulet Reservoir headgate is closed. This alternative would not eliminate the controlled fill option. A springtime release of flows.

from Hulet Reservoir might still be mandatory if Nahas Lake does not complete filling with late winter flows.

IDWR's decision in previous years has been that the simultaneous filling of both Hulet Reservoir and Nahas Lake is the most advantageous for the drainage as a whole, and without a specific modification plan on file, the Hulet Reservoir headgate will continue to be closed November 1. Proposals outlining modified scheduling would need to be submitted and evaluated well in advance of November 1.

A third option, as you have mentioned, would be to complete the fill of Nahas Lake with ground water flows pumped from the Tyson well. You have indicated that you might be willing to pay some pumping charges in lieu of the loss of stored flows from Hulet Reservoir. As I have told you, no water right exists which allows the pumping of the Tyson well for this purpose. However, research of the Nahas rights revealed a water right license from ground water which authorizes diversions to storage in Nahas Lake, using a well on the Nahas Ranch. This well is not currently used as a primary source to fill Nahas Lake. In order for the Tyson well to be used under this right, the Nahas license would have to be modified (transferred) to add the Tyson well as an authorized point of diversion. The Watermaster may or may not be placed on active duty during a fill from the Tyson well, depending upon the conditions which are placed upon the transfer of the right. This option might also work well if combined with option #2.

I spoke with Craig Baker of Nahas Ranch. He seemed open to the possibility of such an arrangement utilizing the Tyson well. Under this option, it will be the responsibility of Nahas Ranch to file the water right transfer, with the permission of Mr. Hackley, owner of the Tyson Ranch. It will be the responsibility of the involved parties, consisting of yourself, Mr. Nahas and Mr. Hackley, to reach an agreement which details the conditions of use of the well, and which extends authority to Nahas Ranch to file the appropriate documents. I will gladly provide my assistance in completing the application form once the groundwork has been done. Please be advised that transfer approvals may take several months. To ensure that the Tyson well is authorized for use in 1996, the transfer application should be filed as soon as possible.

If you have additional questions or would like to proceed with either of the above options, please contact me.

Sincerely,



Cindy Hodges

Sr. Water Resource Agent