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State of Idaho

DEPARTMENT OF WATER RESOURCES

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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 23, 1993

Dear Wateruser:

The enclosed order incorporates ground water into Water District No. 34. I have entered this order after carefully considering the testimony given at the February 8, 1993 hearing, the written statements received, the department's records, the applicable law and the hearing record and court order of December 18, 1992 authorizing interim administration. Inclusion of the ground water into the water district is consistent with state law and necessary to comply with the court order providing for distribution of water pursuant to the Director's Report for Reporting Area 34 (Basin 34) in accordance with priority of right.

I have also carefully considered the concerns that have been expressed about implementation of augmentation plans. This order puts in place the institutional mechanisms provided by Idaho law to manage ground water, including the conjunctive management of surface and ground water resources in the Big Lost River Basin. Augmentation is a method for allowing continued use of junior ground water rights found to injure prior surface rights. It is my intent to offer the opportunity for ground water users to continue to operate their wells by using augmentation plans as needed to protect senior surface water rights. IDWR will continue to work with the watermaster and the waterusers to develop and implement augmentation plans to allow ground water pumping this season. However, other approaches may be possible if a consensus can be reached, and I am willing to continue to work with waterusers to consider alternatives to augmentation, but we must recognize that the irrigation season is fast approaching and the time for decisions is at hand.

Expansion of Water District No. 34 is needed to allow ground water management whether or not augmentation becomes a part of the management procedures in the basin. Inclusion of ground water diversions within the regulatory duties of the watermaster will allow monitoring and control of ground water diversion and use to that authorized under valid rights, including supervision of ground water used by exchange with surface flows.

Water District No. 34 Wateruser
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This order provides for administration of water resources of the Big Lost River Basin in accordance with the listing of water rights and general provisions 2, 3, 4, 5, 6, 8, 9, 10, 12.b, 12.c, 13.b, 14 and 17.a from the Director's Report for Reporting Area 34. Among these general provisions is the conjunctive administration of ground and surface water. Copies of general provisions have previously been mailed to each water right claimant and you are encouraged to refer to this document. Additional copies are available upon request and the entire Director's Report may be reviewed at any IDWR office, the Water District 34 office, the Big Lost River Irrigation District office, the county clerk's office, and local SCS and county extension offices.

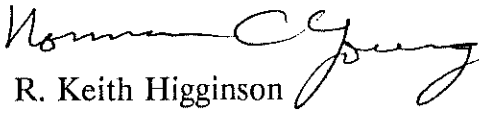
In order to protect senior water rights, both surface and ground water rights will be regulated on a priority basis. This regulation and administration of water rights in Water District No. 34 will include surface water rights with diversions from the Big Lost River and tributaries, and ground water rights with diversions in the Big Lost River Basin which are located upgradient (northerly) of Line A on the enclosed map. All other ground water rights with diversions downgradient of Line A in Water District No. 34 will not be regulated by the watermaster until such time as the Director determines that such regulation is necessary. Administration and regulation of water rights in Water District No. 34 will not include ground water rights for stockwater purposes, or domestic purposes as defined by Section 42-111, Idaho Code, until such time as the Director determines that such regulations are necessary.

The December 18, 1992 court order also requires that rules and regulations be adopted to guide administration of the water rights after 1993. IDWR will, with your help and cooperation, commence and complete the adoption of the rules in accordance with the court's order.

On Monday, March 1, 1993 at 1:00 p.m. the Big Lost River Basin Water District will conduct its annual meeting at the Butte High School Auditorium in Arco.

If you have questions concerning this matter, please do not hesitate to contact this office or the IDWR regional office in Idaho Falls.

Sincerely,


acting for R. Keith Higginson
Director

Enclosures

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | | |
|-----------------------------------|---|-------|
| IN THE MATTER OF THE REVISION |) | |
| OF WATER DISTRICT NO. 34, THE BIG |) | |
| LOST RIVER AND TRIBUTARIES, |) | ORDER |
| TO INCLUDE GROUND WATER |) | |
| _____ |) | |

FINDINGS AND CONCLUSIONS

By previous designation Water District No. 34 is composed of the entire Big Lost River drainage basin in Butte and Custer counties.

Historic water delivery by the watermaster in the basin has been limited to surface water sources.

On May 7, 1990, Idaho Department of Water Resources issued a Notice and Proposed Order in the matter of the administration of the use of surface and ground water of the Big Lost River Basin. A hearing concerning the Proposed Order was held at Mackay, Idaho on May 30, 1990.

On August 11, 1990, Department issued a Final Order in the matter of administration of the use of surface and ground water of the Big Lost River Basin. This order requires that the use of ground water within the Big Lost River Basin be incorporated into Water District No. 34 and identifies the conditions which must be satisfied for said expansion to occur.

The conditions identified in the Final Order of August 11, 1990 have been satisfied.

The Director's Report for the basin (Reporting Area 34) filed as a part of the Snake River Basin Adjudication, describes and recognizes interconnection between surface water and ground water in Basin 34.

On June 18, 1992, the Director filed a motion with the Fifth Judicial District Court in and for the county of Twin Falls seeking authority to use the Director's Report of Water Rights for Basin 34 for water distribution pursuant to Section 42-1417, Idaho Code.

On December 18, 1992, Judge Hurlbutt of the Fifth Judicial District Court granted with limitations the motion of the Director of the Department of Water Resources for administration of water rights in the Big Lost River drainage as the rights are recommended in the Director's Report for the basin.

In order for the department to properly administer the water rights in the basin, the Director needs to revise Water District No. 34 as provided in Section 42-604, Idaho Code to provide for the administration of ground water rights together with surface water rights.

The Department has conducted a hearing relative to expansion of the water district in accordance with Section 42-604, Idaho Code. The Department took official notice of the files and records of the Department relative to water distribution problems in Basin 34 and of the hearing record and December 18, 1992 order allowing distribution of water rights based upon the Director's Report for Basin 34.

IT IS THEREFORE, HEREBY ORDERED PURSUANT TO THE PROVISIONS OF SECTION 42-604, IDAHO CODE AS FOLLOWS:

1. Water District No. 34 is revised to includes all surface water and ground water in Basin No. 34, as shown on the attached map.

2. That the watermaster of Water District No. 34 is directed to administer both surface and ground water within the basin in accordance with the listing of water rights and general provisions 2, 3, 4, 5, 6, 8, 9, 10, 12.b, 12.c, 13.b, 14 and 17.a contained in the Director's Report of water rights for Basin 34.

3. Administration and regulation of water rights in District No. 34 will not include ground water rights for small stockwater purposes, or small domestic purposes as those uses are defined by Section 42-111, Idaho Code, until such time as the Director determines that such regulation is necessary to protect senior water rights.

DATED this 23RD day of February, 1993.

acting for 
R. KEITH HIGGINSON
Director

Figure 1

WATER BASIN 34

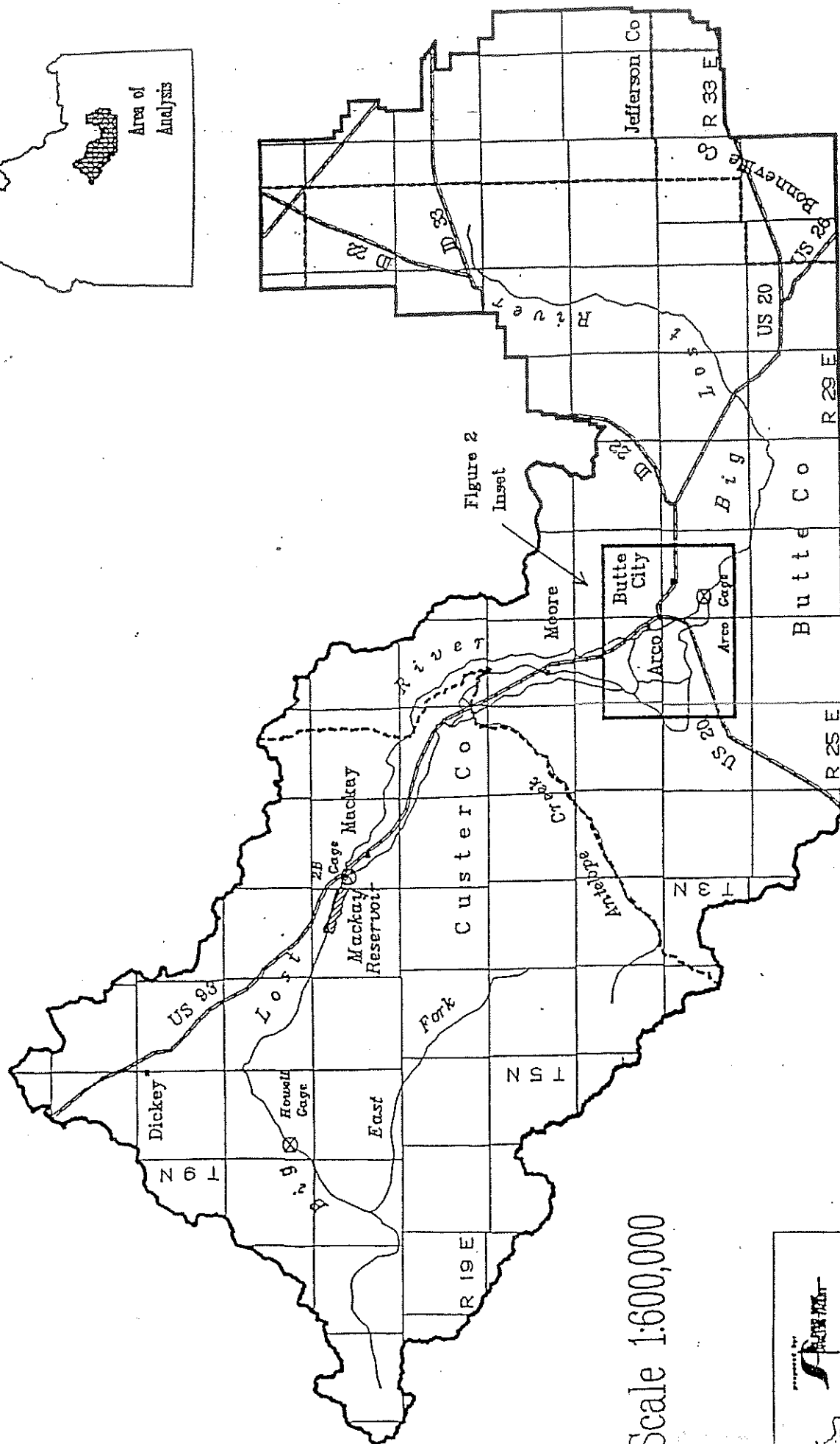
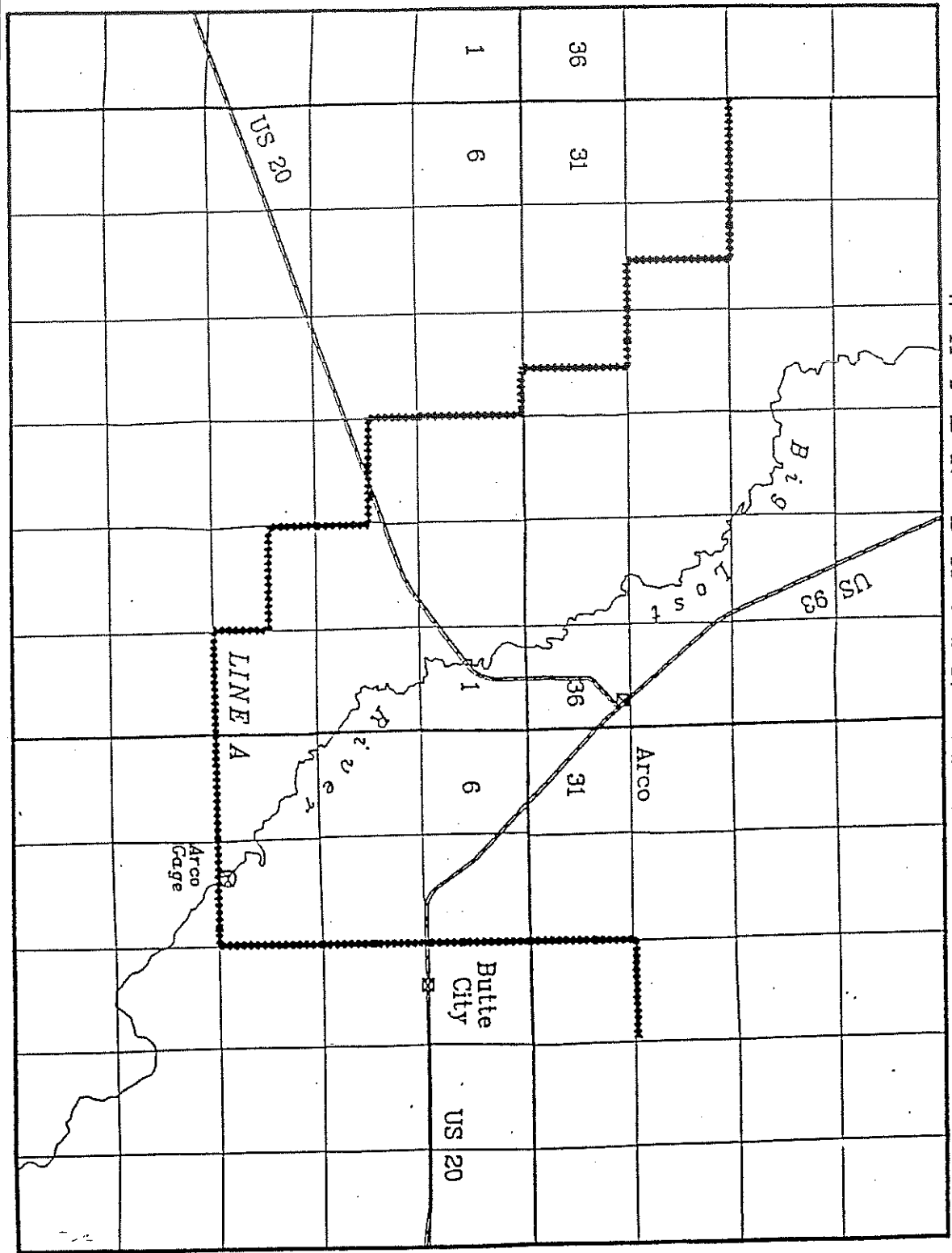


Figure 2

WATER BASIN 34 INSET



R 26 E

R 27 E

Scale 1:100,000