



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

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DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 8/5/04

TO: Bob Duke & Loy Pehrson FROM: Gary Spackman  
588-3137 & 588-2572

DOCUMENT DESCRIPTION: See attached letter re:  
WD 34 Mitigation Plan.

COVER SHEET + 3 PAGES

CONTACT: Debbie Gibson IF YOU DO NOT RECEIVE ALL THE PAGES.  
(208) 327-7953

THANK YOU!

hp officejet 7130  
printer/fax/scanner/copier

Fax-History Report for  
ID Dept of Water Resource  
208-327-7866  
Aug 05 2004 2:01pm

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**Last Transaction**

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Aug 5	1:59pm	Fax Sent	912085883137----8093	1:23	4	OK

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Fax-history Report for  
ID Dept of Water Resource  
208-327-7866  
Aug 05 2004 2:06pm

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**Last Transaction**

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Aug 5	2:04pm	Fax Sent	912085882572----8093	2:10	4	OK

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State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

August 5, 2004

LOY PEHRSON  
RT 1 BOX 48  
DARLINGTON ID 83255

MITCHELL SORENSEN  
3871 W 2500 N  
MOORE ID 83255

Re: Mitigation Plan for Jensens' Petition for Delivery Call

Gentlemen:

The following letter describes the concepts of a global plan for providing mitigation to Jay Jensen and L. Vaughn Jensen for depletions caused by ground water withdrawals in the Big Lost River Basin. Any ground water user who adheres to this global mitigation plan may continue diverting ground water during the 2004 irrigation season.

The components of the plan are:

1. Ground water will be pumped from a well owned by Mark Mickelson into the Moore Ditch and delivered to Jay Jensen and L. Vaughn Jensen, measured at their field headgates in the following quantities:

a.	Jay Jensen	—	216 acre-feet
b.	L. Vaughn Jensen	—	<u>13 acre-feet</u>
	<b>Total</b>	<b>-</b>	<b>229 acre-feet</b>

The Idaho Department of Water Resources (IDWR) already approved a temporary transfer for the change in place of use described by the mitigation plan.

2. IDWR previously approved a plan of mitigation, referred to hereafter as the "Mickelson Well Plan." On Friday, July 30, 2004, participants in the Mickelson Well Plan began pumping water from the Mickelson well and delivering mitigation water to Jensens. These ground water users agreed to compensate Mickelson for the costs of pumping and delivering the water to Jensens. Based on 2003 records of ground water pumped, the ground water users who have subscribed to the Mickelson Well Plan account for approximately 50% of the ground water pumped in Water District No. 34.

3. Other ground water users wish to provide mitigation to Jensens with water pumped from the Mickelson well, but do not want to participate directly in the Mickelson Well Plan. These ground water users propose to pay Jensens directly for their proportionate share of pumping and delivering ground water to Jensens from the Mickelson well. This plan will be referred to hereafter as the "Direct Payment Plan." The costs and proportionate share of the costs will be determined as follows:

(a) Loy Pehrson will provide to IDWR a list of ground water users who want to participate in the Direct Payment Plan. Names of ground water users may be added to the list at any time.

(b) IDWR will determine each participating ground water user's proportionate share of the total 2003 ground water pumped by percentage and advise Loy Pehrson of each participant's proportionate share.

(c) On or before Friday, August 6, 2004, Mitchell Sorensen, or other participants in the Mickelson Well Plan, will determine the cost of one week's delivery of water to Jensens from the Mickelson well, and will project the total cost of delivering the entire 229 acre feet based on the pumping costs for the first week. The underlying data, the computations, and ultimate projections of cost and timing of delivery will be submitted to Loy Pehrson and IDWR.

(d) By noon on Friday, August 6, 2004, Loy Pehrson will submit to IDWR a final list of ground water users who have agreed to participate in the Direct Payment Plan. Names may be added to this list at any time following the Friday deadline provided IDWR is informed of the additions.

(e) IDWR will send letters to all participants in the Direct Payment Plan notifying them that they may continue to pump ground water for the remainder of the 2004 irrigation season.

(f) Loy Pehrson, or some other participant in the Direct Payment Plan, will pay a lump sum payment directly to Jensens equal to the combined total of the proportionate costs of pumping the Mickelson well that are attributable to each of the participants in the Direct Payment Plan.

4. Ground water users who want to participate in the previously approved Mickelson Well Plan may continue to enroll in the Mickelson Well Plan.

5. The amended order for distribution of water issued by the Director of IDWR on July 23, 2004 remains effective for the 2004 irrigation season. Any ground water user not participating in the Direct Payment Plan or the Mickelson Well Plan, must immediately cease diverting ground water unless an individual mitigation plan has been approved for the ground water user.

6. The participants in the global mitigation plan, consisting of the Direct Payment Plan and the Mickelson Well Plan, agree that they will work together to conjunctively manage the water resources of the Big Lost River Basin.

The above concepts are approved as a global mitigation plan to respond to the Jensens' Petition for Delivery Call.

IDWR commits to the following:

Direct mitigation to the Jensens, as provided by the global mitigation plan, creates no expectation or precedent that direct mitigation to senior priority surface water users by the junior priority ground water users will be provided in future years.

The Director of IDWR will not instruct the watermaster to curtail ground water uses until the morning of Monday, August 9, 2004. On August 9, 2004, IDWR will transmit to the watermaster of Water District No. 34 a list of ground water users who are not participating in mitigation and will instruct the watermaster to shut the wells off until the ground water users are mitigating for their ground water use.

If requested by the advisory committee, the watermaster of Water District No. 34, or any other significant group of water users in Water District No. 34, IDWR will meet at least once a month with the water users of Water District No. 34, and discuss and devise a means of mitigation for future years. IDWR has determined it is essential that the water users in Water District No. 34 develop a plan of mitigation for the 2005 irrigation season prior to the water district annual meeting. In addition, IDWR may be asked to present, discuss, or receive information related to limitations of water rights, illegal use of water, measurement and delivery of water, relationships of ground water to surface water, or other subjects related to water rights and water administration.

IDWR commits to assist Water District No. 34 and water users within the limits of existing budgets and personnel. IDWR supports efforts to gather additional data, analyze the data, conduct studies, or develop models to further understand the water resources of the Big Lost River Basin if funding is made available for the additional work.

I appreciate the unselfish work of both of you in finding a solution to the recent controversy related to mitigation and the petition for delivery call.

Sincerely,



Gary Spackman

- c. Bob Duke, Watermaster
- Jay Jensen
- Mark Mickelson
- Ray Rigby
- Don Burtenshaw
- Lenore Barrett
- JoAn Wood
- Ron Carlson, IDWR Eastern Region
- Roger Warner, IDWR Eastern Region