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DEPARTMENT OF
WATER RESOURCES

February 23, 2005

Gary Spackman
Idaho Department of Water Resources
332 E. Front St.
Boise, Idaho 83720-0098


Dear Gary:

As a holder of priority date May 1, 1885 surface water rights to the flow of the Big Lost River in Water District 34 which are diverted below Mackay reservoir, and on which a request for mitigation pursuant to Water District 34 distribution rule 50.04 at the appropriate time when ordering water in the spring of 2005, hereby offer the following for inclusion in any Idaho Department of Water Resources (IDWR) approved mitigation plan offered by junior priority ground water users, after the Director of IDWR has reviewed the depletion number of Rule 50.04 c. of the Basin 34 Water Distribution Rules:

1. That all proper requests for mitigation be honored and fulfilled by the Watermaster to the extent possible under any approved mitigation plan.
2. That curtailment of junior groundwater users not participating in an approved mitigation plan or if there is no mitigation plan, occur by priority, with the most junior right totally curtailed prior to curtailing the next senior user.
3. That junior groundwater users must be curtailed if mitigation water is not available pursuant to an approved plan and that "futile call" shall not be invoked as a defense in said situation.
4. The cost of acquisition of mitigation water acquired shall be the financial burden of the junior ground water users. Since a financial demand against senior surface users would in effect be a further injury to their priority rights.
5. That IDWR recognizes that the specific Water Distribution Rules for Conjunctive Management in Water District 34 are the exclusive rules for water administration in Basin 34 and that a separate call under the Conjunctive Management Rules is not necessary to invoke curtailment under administration in Water District 34.
6. That a primary goal of any approved mitigation plan include recovery of the groundwater aquifer through curtailment or recharge as a hedge against future droughts.
7. That any mitigation plan shall require comprehensive and ongoing groundwater measurements as one means of calculating the amount of needed future mitigation water for the purposes of avoiding future injury to senior surface users, as well as recovering the aquifer.

Sincerely,


Wilbert R. Beck


Lora L. Beck

2549 U S HWY 93 N.

Arco ID 83213