



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

July 12, 2004

**Re: Mitigation for/Curtailment of Diversion of Ground Water Rights with Priority Dates  
Junior to July 30, 1883, Located in Water District 34, Big Lost River**

Dear Water Right Holder:

The records of the Idaho Department of Water Resources ("IDWR") and Water District No. 34 indicate that you are the holder of one or more consumptive ground water rights with a priority date that is junior to June 30, 1883. On May 13, 2004, the Director of IDWR notified you that you were required to provide mitigation to senior priority ground water right holders in Water District No. 34 according to the Water Distribution Rules – Water District 34. The notice stated that an acceptable mitigation plan had to be submitted to IDWR prior to June 4, 2004. An acceptable plan was not submitted.

Enclosed is an order requiring that you provide mitigation on or before July 22, 2004 or cease and desist diversion of ground water under your ground water right. The order also directs the watermaster of Water District No. 34 to prevent the diversion of ground water from wells described as points of diversion by junior priority ground water rights. This order affects consumptive ground water rights bearing priority dates junior to June 30, 1883 for irrigation, commercial, industrial, municipal and other uses, including the irrigation of non-agricultural lands in excess of one-half acre. Small domestic and stockwater uses satisfying the criteria of Idaho Code § 42-111 and Idaho Code § 42-1401A(11) are not required to mitigate or cease and desist.

The above referenced order was issued in response to a call for delivery of water rights held by Jay V. Jensen, Jack A. Jensen, and L. Vaughn Jensen ("Jensens"). Jensens own water rights describing the Big Lost River as a source and bearing priority dates of June 1 and June 30, 1883. The Director of IDWR determined that the Water Distribution Rules – Water District 34 and the Snake River Basin Adjudication established that ground water in the Big Lost River Basin must be administered conjunctively with the flows of the Big Lost River and its tributaries. The Director also determined that previous studies establishing a hydraulic relationship were incorporated into the Water Distribution Rules – Basin 34 and that the water distribution rules establish that pumping by junior ground water right holders establishes material injury to surface water users. Finally, the Director determined that the water distribution rules adopted a mitigation plan as described in the Rules for Conjunctive Management of Surface and Ground Water Resources, and that the water right holders of junior priority water rights must adhere to the provisions of the plan or have their diversions of water curtailed.

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Holders of consumptive ground water rights in Water District No. 34 that are junior in priority to June 30, 1883 must add 6,110 acre feet of water to the flow of the Big Lost River to make up, or mitigate, for depletions to the Big Lost River caused by their ground water diversions. Alternative mitigation plans can also be submitted by Water District No. 34 or by individual water users. A conceptual plan submitted by the Advisory Committee of Water District No. 34. Any mitigation plan must be approved by IDWR and operational on or before July 22, 2004.

**Unless you are a participant in a mitigation plan implemented by a larger group or unless you have sought and implemented a mitigation plan approved by IDWR, on July 23, 2004, you must cease and desist diverting water from your well described as a point of diversion by your junior priority water right. The water master of water district 34 will insure that you cannot divert water during the 2004 irrigation season until a mitigation plan is in place.**

If you have questions concerning the order and this correspondence, please contact the Water District No.34 office, the IDWR Eastern Regional office in Idaho Falls at 208-525-7161, or contact the IDWR state office at 208-327-7900.

Sincerely,



Gary Spackman  
Water Allocations Bureau Chief