



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

July 21, 2004

Mitchell Sorensen  
3871 W 2500 N  
Moore, ID 83255

COPY

On July 16, 2004, you submitted a draft mitigation plan to the Idaho Department of Water Resources (IDWR). The draft mitigation plan was submitted in response to an order requiring mitigation by ground water users within Water District No. 34 issued by the Director of IDWR on July 11, 2004. The order required that mitigation be provided by July 22, 2004 or holders of ground water rights would be required to cease and desist diversions of ground water on July 23, 2004.

On July 19, 1994, we conversed by telephone about the provisions of the draft mitigation plan and you submitted a revised plan with attached participant signatures on July 21, 2004. I've reviewed the provisions of the proposed plan that proposes a temporary transfer of the place of use for a ground water right owned by Mickelsen Properties LLC. The new place of use will be the land irrigated by L. Vaughn Jensen, Jack Jensen, and Jay Jensen.

**This letter approves the proposed mitigation plan.** I wrote, "approved" on the plan and added my signature to document the approval. I am sending a signed copy back to you. The following are clarifications to some of the language of the plan.

Based on our discussions, the portion of the plan titled "Recital of Issues Associated with Conjunctive Management in Basin 34" identifies issues that we must earnestly try to resolve during the months leading up to the next Water District No. 34 annual meeting. Some of these issues will require multi-year attempts to resolve. We agreed that resolution of these issues is not a pre-requisite to implementation of the proposed plan. IDWR commits to work with the water users in Water District No. 34 to address these issues.

Issue no. 3 calls for future studies. IDWR will attempt to gather, analyze, and refine data to better understand the hydrology of the Big Lost River Basin within the limits of its resources. IDWR recognizes the need for better information about the water in the Big Lost River Basin. Nonetheless, IDWR will not commit to study efforts that cannot be supported by current budgets and staff. If further appropriations are approved for further study, IDWR will willingly participate.

Issue no. 6 suggests the possible recognition of "rotation" storage or storage contributed to "charge" the river as part of the mitigation required by the Distribution Rules in Water District No. 34. IDWR believes that at least some portion of the water released from storage could be recognized as mitigation water. The language in the recitals strongly assumes recognition of all of the storage water, but IDWR will only interpret the language as an issue needing further resolution.

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Paragraph 2 of the section titled "Components of 04-PAMP" states that IDWR personnel will quantify and verify the quantities of water Jensens have diverted prior to mitigation "actually being made available." Paragraph 3.b. of "Components of 04-PAMP" states that, if needed, "Jensens will provide supporting documentation (i.e. electrical consumption ledgers, ditchrider field notes, etc.) to the IDWR administrators prior to receiving any mitigation water supplies." IDWR does not believe it is absolutely necessary that all of these documents must be fully submitted and analyzed prior to delivery of mitigation water. IDWR could alternatively assume unknown facts most favorably to the ground water users providing mitigation until Jensens submit the information. For instance, if power usage information is not provided, IDWR would have to assume that Jensens diverted water continuously from their well.

Thank you again for proposing a workable plan. IDWR assumes that you will continue to notify us of water users participating in your plan so IDWR can assure them that they can continue to divert and use ground water.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Spackman". The signature is fluid and cursive, with a large initial "G" and a long, sweeping underline.

Gary Spackman  
Water Allocations Bureau Chief

Cc: Robert Duke, Watermaster; Water district 34  
IDWR Eastern Region