

To: Nick Miller

From: Tom Waddoups

RE: Water District 34
Meeting Nov. 3, 2008

October 27,2008

TO: Nick Miller
Department of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

FROM: Tom Waddoups
22914 N. Shorthorn Ct.
Sun City West, AZ 85375
Phone:623-546-5784

RE: Water District 34 Meeting Monday, November 3, 2008

I will not be able to attend the Water District 34 Meeting on November 3, 2008 in Arco, Idaho, however I would appreciate your consideration of the following delivery issues and practices that affect water users in WD34.

1. Mackay Reservoir Storage

Data is available for 2007 and to some extent 2005 illustrating Big Lost River Irrigation District stored water that exceeded water rights maximum flow rate while curtailing senior priority water rights.

References:

WD34 Procedures Manual, Paragraph 7.3 through 7.3.6. (Mackay Reservoir Storage Rights)

Mackay Reservoir Data (Reservoir Inflow, Outflow and Gain)

Memorandum: Nick Miller to WD34, dated August 3, 2006.(Water Master must insure that storage rights are filled in priority and are not exceeding their flow rate or volume limitation.)

Memorandum: Jennifer Berkey to Bob Duke, watermaster, dated April 30, 2004. (Mackay Reservoir inflow, storage,rotation credit and water to be passed through the reservoir as natural flow for downstream users.) The request to rotate for credit referred to Rule 40.02.d.iii and did not include the requirement of General Provisions 3C and WD34 Procedures Manual,Rule 7.4.1.

Antelope Creek Ditch Rider Log

2. Rotation Credit

Storing water in the Mackay Reservoir under rotation credit has not been in compliance with WD34 rules and General Provisions. During early May,2007, natural flow into the Mackay Reservoir was not released to determine the deliverability test for users requesting rotation credit under General Provisions 3C. In this same period water rights senior to Mackay Reservoir rights were curtailed.

References:

IDAPA 37.03.12.040.02.b.iii

General Provision 3C (Deliverability to place of use)

WD34 Procedure Manual, Rule 7.4.1 (GP-3C supersedes Rule 40.02)

WD34 Procedure Manual Paragraph 7.3. (Water master will not deliver water until water user calls for delivery)

Mackay Reservoir 2007 data

Memorandum: Nick Miller, Dave Tuthill to append WD34 Guidelines for Operation Guidelines Document, dated June 30, 2006. (Rotation can only be initiated by a request to the water master from a water rights holder seeking rotation. The water master must document all requests.

Memorandum: Tim Luke to Bob Shaffer, dated May 21, 2008, (GP 3C provides that water may not be rotated unless it is otherwise deliverable to the place of use. (Field Headgate)

Memorandum: Tim Luke to WD34, dated 9/1/2005. (A delivery attempt consists of shutting off Big Lost River and tributary junior water right diversions.) Big Lost River diversions includes Mackay Reservoir storage rights.

3. Water Measurements and Field Records

Field records have not been available for water users rotating for credit. Data is not available for individual users diverting water from the Hanrahan Canal (Ditch) as required by WD34 Procedures Manual, paragraph 3.5.5. Water measurements are critical in determining deliverability when other water rights are being curtailed.

References:

WD34 Procedures Manual Paragraph 3.5.5. (Field Records) and Paragraph 3.5.7 (Rotation Credit)

Memorandum: Nick Miller to Bob Duke, watermaster, dated May 19, 2006. (The importance of keeping adequate records, for data to be readily available and that water be regulated pursuant to Idaho Law, WD34 rules and other memorandums.)

Memorandum: Tim Luke to Bob Duke, watermaster, dated Sept. 1, 2005. (Delivery records must include deliveries made before and after curtailment when responding to delivery calls.)

4. Delivery Calls and Priority Dates on the River

Delivery calls are required by WD34 rules, however, priority dates on the river are determined by the watermaster and the BLRID. The procedure responding to a delivery call is clear requiring the curtailment of junior water rights and the test of deliverability to determine if the call can be satisfied or is futile. It is not clear how priority date on the river is determined and how water rights are administered under

this procedure. When water rights are curtailed are the rights restored when water becomes available or storage water is released or is a futile call required?

Both methods determine water rights that are curtailed but apparently exclude BLRID junior storage rights. Large amounts of water is generally stored in the reservoir at the beginning of the irrigation season while senior rights are curtailed.

Data is not available for rotation credit delivery calls and the test for deliverability or the curtailed water rights satisfying the calls.

Priority date on the river needs to be addressed in a clear and understandable explanation, referenced to Idaho Law and WD34 rules. The procedure should be provided in writing to all water users.

Natural flow and ground water should not be combined in determining the test of deliverability when a delivery call curtails surface water rights.

References:

WD34 Procedures Manual, Paragraph 7.7.3. (Delivery calls required for delivery of a water right.)

WD34 Procedures Manual, Paragraph 7.6.3.1. (Water must be delivered until a futile call is issued. This includes the Big Lost River, tributaries and the BLRID storage rights.)

Memorandum: Tim Luke to Bob Duke, watermaster, dated Sept. 1, 2005. (Delivery attempt consists of shutting off junior water rights of the Big Lost River and tributaries.) Big Lost River includes water diverted into Mackay Reservoir storage.

The watermaster and water users must adhere to WD34 water rules. The equitable and consistent administration of these rules are of concern to all water users. Many of the issues expressed in this letter have been questioned by others as manifested by the memorandums from IDWR personnel to WD34. Senior water rights were not curtailed while Mackay Reservoir storage occurred in 2008, however it remains to be seen how water administration will occur in future low water years.

I would appreciate your consideration in addressing the above issues at the Arco meeting November, 2008. If you find any errors or inaccuracies would you please send any corrections to my address listed above?

Thank you,


Tom Waddoups