

**CREATION OF Upper Salmon WATER DISTRICT (USWD)**  
**September 26, 2005**

**FACTS:** The State of Idaho and the Federal Government have agreed, in a stipulated agreement, in the Snake River Basin Adjudication (SRBA) to the following conditions with respect to USWD:

- 1) Within six months after issuance of the Partial Decree for the Wild & Scenic River water right, the parties will file a petition with the SRBA court for interim administration of water rights in basins 71 and 72.
- 2) IDWR will establish a water district (USWD) for the Upper Salmon River Basin. USWD shall initially consist of WD71 and WD72.
- 3) Within six months of filing the Director's Report for basins 73, 74, and 75, the parties will file a petition with the SRBA court for interim administration of water rights in those basins and IDWR will incorporate those basins into USWD.
  - A – Existing Water Districts within the basin will be converted to subdistricts within the USWD.
  - B – Other subdistricts will be formed as deemed necessary to accomplish the purposes of the USWD.
  - C – Creation of the USWD shall involve full participation by water users in the area and the existing water districts will have an important role.

**FACTS:** The State of Idaho and the Federal Government have agreed, in a stipulated agreement, in the Snake River Basin Adjudication (SRBA) to the following conditions with respect to duties of the USWD watermaster:

- 1) IDWR and the USWD watermaster shall conduct a systematic inventory of diversions.
- 2) IDWR will evaluate the staffing requirement for operation of the USWD and will identify needs for subdistricts and deputy watermasters as required.
- 3) IDWR will collect and report diversion data on a quarterly basis; except that; during times of shortage, IDWR and the watermaster will ensure that diversion data will be collected and reported on a daily basis as necessary to properly administer water rights.
- 4) IDWR will require installation of lockable controlling works and measurement devices for any existing diversion if it is determined that the water right holder is refusing or failing to comply with IDWR's or the watermaster's instructions and will pursue appropriate civil enforcement action as provided in Idaho Code.

**PROPOSAL BY TIM LUKE (IDWR)** – Tim proposes that the USWD watermaster be appointed (or elected) by the waterusers in the USB and that he become their employee. He suggested that IDWR would fund the position for two years (2006 and 2007) and that after that time, the waterusers would fund the position.

Tim further proposed that each sub-basin (71, 72, 73, 74, and 75) should have a deputy watermaster and that the watermaster in each existing WD within each of the sub-basins should be a deputy to that deputy watermaster.

**OBJECTIONS BY REPRESENTATIVES OF WD 73, 74, 74W AND 75** – After conferring with representatives of WD73 (Ted O’Neal, Stan Dowton), WD74 and WD74W (Carl Ellsworth, James Whittaker, Bruce Mulkey, R.J. Smith, Bob Loucks) and WD75 (Dave McFarland, Bill Gattung), we offer the following objections:

- 1) The proposed structure builds a bureaucracy with layers of watermasters, deputy watermasters, and deputies to the deputies (to be paid for by the waterusers), but adds nothing to the actual administration of water rights within existing Water Districts;
- 2) Most of the activities of the USWD watermaster are involved with implementing the stipulations of the agreement between the State of Idaho and the Federal Government;
- 3) The stipulated agreement as to duties of the USWD watermaster virtually requires that this person be an employee of IDWR.

### **COUNTERPROPOSAL**

- 1) The USWD watermaster should be a direct employee of IDWR. We suggest that the job description of the existing employee (Bob Foster) at Salmon be re-written in such a way that one-half his time be devoted specifically to the duties of the USWD watermaster. This will entail no additional expense to the State of Idaho or to waterusers within the Upper Salmon River Basin.
  - A – Duties should include those stipulated by the SRBA agreement;
  - B – USWD watermaster should be specifically charged with training deputy watermasters.
  - C - USWD watermaster should be specifically charged with supervising deputy watermasters. He should ensure (by random inspection) that deputies have inspected headgates and measuring devices within their respective sub-districts, prior to the initiation of the irrigation season, and that the installation of infrastructure and ongoing maintenance meet criteria for proper measurement.
  - D - USWD watermaster, in consultation with the Deputy Watermasters, should agree on which diversions require measuring devices.
  - E - USWD watermaster should be specifically charged, upon notification by a Deputy, with issuing notices of violation and ensuring that they are enforced.
  - F – To facilitate communication among IDFG, waterusers, and interested agencies, the USWD watermaster, will establish and publish a uniform system of identifying each specific diversion within each sub-basin (example within Pratt Creek, PC-1, PC-2, etc.).
  - G - USWD watermaster will establish a spreadsheet database, by diversion, listing the decreed water rights by priority date.
- 2) Sub-Districts – After filing the Directors Report with the SRBA Court in Basins 73, 74, and 75, IDWR should form, in consultation with the affected waterusers, sub-districts covering all irrigated lands not currently in a water district. Current inactive Water Districts (example WD74-J) should be included in an active existing Water District (example WD74).
- 3) Deputy Watermasters – A deputy watermaster will be elected in every sub-district.

- a. The deputy watermaster will be administratively responsible to the USWD watermaster.
  - b. In consultation with the USWD watermaster, the deputy will determine the frequency with which each diversion in his sub-district will be visited and quantity recorded - some may be annual, some may be monthly, some bi-weekly, some weekly, some daily.
  - c. After determining the workload to meet the minimum expectations of the deputy watermaster job in his specific sub-district, the Deputy Watermaster will present a budget sufficient to compensate the expected expenses (salary, workmen's compensation insurance, mileage, etc.).
  - d. The Deputy Watermasters will be compensated by the waterusers within their respective sub-districts.
  - e. Deputy Watermasters will submit the required reports (stipulated by the USWD watermaster and in such form as furnished by him) in a timely manner.
- 4) **Other Matters** – There appears to be general agreement that all diversions require a lockable (defined as adjustable and capable of being shut completely off) headgate. In our experience, most waterusers don't steal water. Rick Sager reports that within WD74, there are only three headgates that he has to lock to prevent illegal water diversion. At most headgates, simply affixing a tag is sufficient. There appears to also be general agreement that most diversions, especially on tributary streams require an approved measuring device. The USWD watermaster should work with the Deputy Watermasters to determine which diversions do not require a measuring device. The expectation should be that a diversion requires a measuring device, unless it is specifically exempted by the USWD watermaster.

This information is presented in the hope that is useful in establish the Upper Salmon Water District. We believe that the ultimate structure of the proposed district needs to be determined up-front. In that way, the expectations of the State of Idaho, the Federal Government and the affected waterusers can be met with the least cost.

Compiled by Bob Loucks