



State of Idaho

DEPARTMENT OF WATER RESOURCES

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FAX TRANSMITTAL COVER SHEET

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

DATE: 6-24-08

TO: Michael Orr
AG's Office
854-8072

FROM: Tim Luke
IDWR

DOCUMENT

DESCRIPTION: Copy of e-mails 2004 re late winter
recharge on L. Wood River

COMMENTS: _____

COVER SHEET + 5 PAGES

PLEASE CONTACT _____ IF YOU DON'T RECEIVE THIS
ENTIRE DOCUMENT

Luke, Tim

From: Merritt, Allen
Sent: Wednesday, March 03, 2004 4:50 PM
To: Spackman, Gary; Rassier, Phil; Luke, Tim
Subject: Conversations with Tom Arkoosh RE Recharge

Arkoosh called to checkup on the latest regarding the recharge rumor. I told him that the watermaster has been instructed not to recharge unless given written approval. I told him I understood Lynn Harmon was being sent a letter from Gary Spackman but I had not seen the letter. We discussed various issues and I told him that maybe someday recharge may take place under the permit held by the Water Resource Board. I gave him the number of the permit. He called back later and started asking questions about how this could be and if they have proved up on it, ect. ect. Apparently he figured he had better call the state office and he said he would call Phil.

Luke, Tim

From: Merritt, Allen
Sent: Tuesday, March 02, 2004 11:59 AM
To: Spackman, Gary; Luke, Tim
Cc: Saxton, Glen; Rassier, Phil
Subject: Recharge proposal around Shoshone

This memo is to document recent phone conversations regarding this issue and review existing records.

Yesterday and this morning I received calls from Kevin Lakey, watermaster of 37 and 37M. He indicated that the Big Wood wants to begin recharge of water today or tomorrow in the recharge basin near Shoshone from waters diverted from Little Wood River. He was concerned about the injury to hydroplants downstream on the Little Wood and Malad.

This diversion to recharge is predicated on the proposal Mike Faulkner approached Tim Luke on to somehow convert claim 37-13111 used for stockwater to recharge. After discussing this issue with Glen I called Kevin back and told him that the department had no written requests before it and without written authorization from the department he should not allow diversion.

I also received a call from Tom Arkoosh representing power plant owners expressing concern about the proposal and the injury it would cause. I also received a call from Jack Straubhar, power plant owner expressing his concern.

I have queried the database and there appears to be a Water Resource Board active permit 37-7842 for recharge in the name of the Water Resource Board. The database seems screwed up since it lists the same PD for both the Big and Little Wood Rivers up near Richfield. It is ironic that previous owners or applicants associated with this permit was Rangen. The microfilm is unclear as to the status of this permit. It appears that it was once voided but then reinstated and then proof submitted. This needs to be reviewed. This permit appears to be senior to many on the hydroplants below that are expressing concern about injury.

Luke, Tim

From: Blew, David
Sent: Tuesday, March 02, 2004 2:25 PM
To: Luke, Tim; Merritt, Allen; Rassier, Phil; Saxton, Glen; Spackman, Gary
Cc: Castelin, Paul; Anderson, Hal
Subject: Recharge At Shoshone

Gentlemen,

Please let me reiterate that the only entity who has the authority to recharge at the site near Shoshone is the Lower Snake River Aquifer Recharge District. The site is operated under a cooperative agreement with the Bureau of Land Management and they are solely responsible for what happens at that site. Currently, the LSRARD **does not** have an insurance policy to cover recharge activities at the site. In all of the agreements I have found, AFRD#2 can use the site as an operational spill during the irrigation season but no one else appears to have authority to open the gates. Additionally, any managed recharge done in this state **requires** an approved monitoring plan from the Department of Environmental Quality. Is there any such monitoring plan in place? The recharge site at Shoshone is not a public recharge basin. It is a private facility owned and operated by the LSRARD. LSRARD is willing to cooperative with anyone who wants to do recharge, however they must be contacted in order to give authorization for the site to be used.

I am not trying to stop the recharge. However, it must be done in accordance with state law and not in a haphazard fashion as it has in the past. We have been working diligently with other state agencies to gain acceptance for managed recharge. Recharge being done without monitoring plans in place is making it difficult to explain why we are allowing recharge to proceed as we have.

David Blew, Aquifer Recharge Program Coordinator
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Luke, Tim

From: Merritt, Allen
Sent: Monday, March 01, 2004 8:17 AM
To: Luke, Tim; Spackman, Gary
Cc: Saxton, Glen; Blew, David; Saxton, Glen; Yenter, Cindy (Hodges)
Subject: RE: Recharge Inquiry - Little Wood River

I think this needs to be looked at very carefully. Water flowing in these streams and canals for stockwater naturally recharge the aquifer since there is significant loss along the rivers and canals. If you take the water out higher up in the system the natural recharge is lost so the net benefit to the aquifer would be less than what would appear on someone's credit sheet. Credit should only be that which is recharged that is actually a physical reduction to what would normally be dumped into the Malad canyon.

I'm concerned about changing the nature of use of stockwater to recharge.....seems to be expansion issue. I also agree with Tim that the power plants on the Little wood are going to come unglued if this proposal moves forward even though their rights are probably subordinated.

-----Original Message-----

From: Luke, Tim
Sent: Sunday, February 29, 2004 2:57 PM
To: Spackman, Gary
Cc: Saxton, Glen; Blew, David; Saxton, Glen; Yenter, Cindy (Hodges); Merritt, Allen
Subject: Recharge Inquiry - Little Wood River

Gary,

Late on Thursday afternoon Karl asked that I look into some water rights on the Little Wood River that Mike Faulkner, chairman of the North Snake GWD, was inquiring about to use for recharge. Faulkner apparently had discussed this matter with Clive Strong who then called Karl. I was given no information about the rights because I don't think Faulkner had given clear information about the rights to either Clive or Karl other than some proposal to divert some winter stock water rights from the Little Wood River to the Lower Snake Aquifer Recharge District (LSARD) site near Shoshone. Faulkner said that "they" wanted to start diverting the water to recharge starting the first week of March.

Since I will be out of town on Monday attending water district meetings, you may need to follow-up or coordinate this matter with Karl and Glen, and perhaps get back to Mike Faulkner. Listed below is some of the information I obtained relative to this issue since Tuesday evening.

I called the Big Wood River watermaster, Kevin Lakey, and learned that the right that Faulkner was probably talking about was right no. 37-04170, a beneficial use claim for stockwater with a priority of 12/24/1906 for 75 cfs, and claimed period of use from 9/15 to 5/01. This right has been claimed in the SRBA as no. 37-13111, with the same priority, rate of flow and period of use. I believe that Lynn Harmon or someone from the BWCC may have discussed this claim and potential use or diversion of it to the LSARD site. The claimed point of diversion for the right is the South Gooding Main Canal, located about 5 to 6 miles east of Gooding. A second claimed point of diversion is located on Silver Creek, near Richfield. Kevin mentioned both the South Gooding Main and Dietrich Canal (near Richfield) as diversions for this right. He also mentioned the Milner Gooding Canal, but I believe he said the Milner Gooding is used as the diversion to convey water from the Little Wood to the LSARD site. I talked also with Dave Blew, who I believe said that the Milner Gooding is used to divert water from the Little Wood to the LSARD site but that flows in the Little Wood generally have to be quite high in order to get the water in to the Milner Gooding.

Late Friday afternoon Mike Faulkner called me directly and confirmed that the right or rights in question that he was looking into for recharge were winter stock water rights owned by the BWCC. I told Faulkner that I had researched the BWCC Little Wood River winter stock rights and only found the beneficial use claims referenced above. I told Mike that the claim is limited to 75 cfs. Faulkner said he thought the rights were decreed rights from the Frost Decree and thought that perhaps recharge is a use allowed under the Frost Decree due to a broad finding or statement in the decree about all rights having a use for irrigation and "other uses". He also thought that there may even be additional stock rights, adding up to as much as much as 110 cfs or more based on some recent conversation with Lee Peterson. I advised Mike that if the claim would be used for recharge, that either a transfer would have to be filed or they may need to put the right into and lease it from the Water Supply Bank. Faulkner was concerned about how much of the river could be diverted for recharge and what impacts there might be to senior rights and asked if I could research the senior rights. He or someone had estimated flow of the Little Wood near Shoshone to be about 40 to 50 cfs. Faulkner's reference or explanation of where the water was to be diverted seemed a little vague to me due in part

because I am not that familiar with the area and because it did not necessarily match what either Dave Blew or Kevin Lakey explained to me. Faulkner said that no construction at the diversion point was needed, that "they" only needed to drop some boards in an existing check structure. I told Mike that I would look at the decree and the claims further as soon as I could, and that I was going to be out of town at water district meetings on Monday. He asked, or about demanded, that I get back to him ASAP because "they" were ready to divert water as soon as they could this week (week of March 1).

Attached to this message is an excel file with several different spread sheets. I queried adjudication records and water rights with priority senior to the 12/24/1906 BWCC stock claim (I omitted rights upstream of the L Wood River and Milner Gooding diversion near Shoshone). Also included are the adjudication records with priority dates junior to the BWCC stock claim, and the listing of rights and claims that the BWCC has on the Little Wood River.

Here are some concerns the Department may have regarding this proposal:

- Diversion of a stock water claim, even if accepted into and leased from the water supply bank, may be risky since I believe that downstream hydropower plants would immediately complain and request regulation of the rights. If there is a delivery call from the hydro plants, and because these rights are in a water district, I believe that a statutory or beneficial use claim would have to be cut off.
- If approved, how much water could be diverted to recharge? NSGWD would want to divert as much as possible but some water would have to be left in the river or bypassed. How would water be bypassed when it is questionable whether water can even be checked high enough to be diverted into the Milner Gooding, or whatever diversion may be used to convey the water to the LSARD site?
- Dave Blew says that if the LSARD site is used we need to make sure that the insurance is paid up for the site (LSARD apparently gets an insurance break when water is not used but has to increase its insurance when the site is used). Dave also mentioned that monitoring would be necessary to meet DEQ concerns. Dave and I agree also that the diversion should also be measured for amount diverted if anyone is claiming this for mitigation credit. I explained these points or concerns to Faulkner.
- Karl said that he did not think that much water diverted and used for recharge this far away from the Thousand Springs would have an impact on the Springs between 4/1/2004 and 3/31/2005, and thus could not count toward the 53,000 acre-feet required over the next year (unless it could count as part of the 20% carryover and assuming it has an impact in the second year). I also mentioned this to Faulkner but he did not seem concerned as he felt that they would be required to mitigate every year and that it would just somehow be credited to them in some subsequent year. This impact issue raises questions and suggests that the Department will need to do some type of analysis on using this site, using either the ESPA ground water model, the transfer spreadsheet tool, or perhaps the model or models used by RD Schmidt, BOR when he studied recharge sites and impacts in the Thousand Springs/ESPA several years ago.

I will discuss this with you first thing Monday a.m. before I leave. You may want to raise this at the director's meeting (I will not attend that as I will be leaving at about 8:45 a.m.) If you need to get hold of me, call me on my cell phone, 830-4682.

Tim

<< File: BWCC-LWood Rts.xls >>