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RECEIVED

APR 25 2008

DEPARTMENT OF
WATER RESOURCES

WD
March 21, 2008

Tim Luke
Water Distribution Section
Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise, Idaho 83720-0098

Re: Dietrich Main Canal Ground Water Users Mitigation Plan

Dear Tim,

I received a copy of your letter to Mr. William Parsons dated March 12, 2008 concerning the Dietrich Main Canal Ground Water Users Mitigation Plan. I personally want to thank you for the timely manner in which you and other IDWR personnel reviewed the plan and returned correspondence with supporting opinion. The irrigators also express their appreciation.

In the opening statement and the first bullet you stated, "The Department does not currently support or approve", and mitigation plans similar to the one submitted "are generally not acceptable." The terms "currently" and "generally" do not mean *never*. Therefore, the users and myself understand that with clarification and answers to the "reasons or concerns" listed in the bullets in your correspondence a version of this plan may be accepted.

The following bullets outline the direction the plan will take to receive approval. The following bullets correspond to the bullets in your letter respectively.

- It is understood that most mitigation plans propose alternative sources of water that replace pumped groundwater. This plan mitigates with water that, if developed, could create drastic drops in the static water table within the project area. These drops would increase the potential for calls from spring users already making calls, thus increasing the possibility for additional curtailment of groundwater. This mitigation plan is an attempt to preemptively halt future reductions of the springs and additional calls on an already strained resource. It is true that this plan does not match the types of example mitigation plans outlined by Ms. Yenter in the February 1, 2008 e-mail to myself. That is because there is no other small basin and grouped water users in any other part of the ESPA. The situation is unique. Therefore, it behooves all of us to create new ideas and preemptive attempts to make viable use of the resource.
- An exhaustive investigation of the water rights involved in the mitigation plan was not completed. Even a review (mentioned in your letter) by IDWR personnel did not conclusively determine the water rights. However, if there is a possibility of acceptance of a version of this mitigation plan the water right information could be collected and determined absolutely.

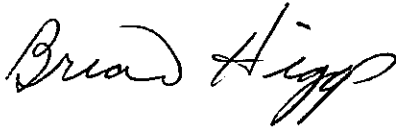
- My cursory review of the lands included in the submitted plan lie within the Big Wood Canal Company (BWCC) service area. Again, the information on the lands and points of diversion could be determined absolutely.
- That there is a flattening of the water table in the area of the Dietrich Main Canal caused by the leakage of surface water is undisputable when the data included in the databases of the North Snake Ground Water District, the IDWR, and the United States Geological Survey is plotted. In addition, there are more than 50 years of diversion records and ditchrider records that will allow for an absolute calculated leakage value. However, Lynn Harmon, BWCC manager remains the resident expert on leakance of the canals of the BWCC. His institutional knowledge has great value.

The planned purchase of the springs as mitigation for the Blue Lakes water call is wonderful. However, if there is a possibility for the groundwater irrigators on the Dietrich Main Canal (DMC) to receive mitigation for both current spring calls and stop further development of the groundwater of the area it certainly would be the better option.

The irrigators on the DMC received the blessing of the NSGWD to move forward with the mitigation plan as it was submitted. There has not been nor is there currently any intention of the DMC canal users to opt out of the NSGWD. However, acceptance of a mitigation plan may require a reevaluation of that option.

We humbly request a timely review of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Higgs". The signature is fluid and cursive, with the first name "Brian" and last name "Higgs" clearly distinguishable.

Brian Higgs, P.G.

Cc: Big Wood Canal Company
North Snake Ground Water District
William A. Parsons, Attorney
Gerry Nance



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor
DAVID R. TUTHILL, JR.
Director

March 12, 2008

William A Parsons
Parsons, Smith & Stone
PO Box 910
Burley, ID 83318

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MAR 24 2008

DEPARTMENT OF
WATER RESOURCES

Re: Dietrich Main Canal Ground Water Users Mitigation Plan

Dear Bill,

I received the proposed mitigation plan you forwarded to the Idaho Department of Water Resources (IDWR or Department) on behalf of the "Ground Water Users of the Dietrich Main Canal". You asked for both comment and approval of the plan prior to the 2008 irrigation season. I and other Department staff reviewed the plan that was provided by the users' consultant, Brian Higgs. Other Department staff who reviewed the plan includes Gary Spackman, Allen Merritt, and Cindy Yenter, who is also the Water District 130 watermaster. I have also had some contact with the Director regarding this proposal, and discussed the merits of the plan with Dr. Alan Wylie, a Department hydrologist and expert for the Eastern Snake Plain Aquifer Model.

The Department does not currently support or approve the proposed mitigation plan for the following reasons or concerns:

- The proposed plan appears to be based on an agreement with the Big Wood Canal Company (BWCC) to avoid some potential future diversion of shallow ground water by the BWCC resulting from canal leakage. Ground water mitigation plans that essentially seek credit for canal seepage resulting from on-going delivery of historical surface water rights are generally not acceptable. The proposed plan does not propose any new or additional action that would offset depletions to the aquifer from pumping of ground water under the rights referenced in the plan. Examples of actions that may effectively offset ground water pumping include additional aquifer recharge (recharge in addition to normal and historical seepage from canal leakage associated with the diversion of senior priority surface water rights), replacement water, conversion projects, and voluntary curtailment of ground water or similar actions. The Water District 130 watermaster, Cindy Yenter, advised Mr. Higgs via e-mail on February 1, 2008 as to the types of mitigation plans generally acceptable to the Department. The proposed plan does not match the types of mitigation plans or examples outlined by Ms. Yenter.
- There is no information or documentation in the plan that clearly indicates whether the ground water rights for which mitigation is sought are primary or supplemental ground water rights, and if supplemental, whether they are supplemental to lands irrigated with

IS There NO
Credit For Areas
That Can Show
They Are Not
depleting the
Aquifer in general
because of local
water system loss
that can be demonstrated & proven -

Are (Those) ^{Pumpers} in an Area with Surface Irrigation
from Canal Systems That Prove they are supplying
water to the Aquifer without current credit for same
treated the same as Pumpers in a "No Surface System"
Area?

This is geographic. It can be shown that
All wells in this Geographic Area are
Removing less water from the Aquifer than
BWCC is losing to the same area.
A quick review of the rights by the Department does not conclusively address this issue. It appears from our review that some of the ground water rights are likely supplemental to BWCC shares, and some are likely primary source water rights. Two of the rights listed are applications and not even valid water rights. *whether some wells are licensed or not is a department matter.*

- Assuming that BWCC does have the right to recapture canal leakage via ground water wells, the BWCC can only deliver the recaptured water to lands currently served by the BWCC canal shares, not to lands solely irrigated from a ground water source. Similarly, the plan does not clearly establish that the ground water rights points of diversions are located within the boundary of the BWCC. *This can be easily demonstrated. Does the Canal Co have the right to improve their delivery system?*
- The plan suggests that there is some flattening of the ground water gradient attributable to leakage from the Dietrich Main Canal, yet little or no data are presented to support this assertion. In addition, the reported canal seepage rates or percentages are not supported by any data. The report refers only to a single conversation with BWCC manager Lynn Harmon. *? Record of Dietrich main diversion amount minus headgate deliveries should show this.*

Please contact me directly at 208-287-4959 if you wish to further discuss this or any other mitigation issues concerning your clients.

Regards,

Tim Luke
Tim Luke
Water Distribution

where the water goes after entering the ground is arguable. The fact that the recharge is occurring is proved by measurement.

Cc: Brian Higgs, Water Well Consultants Inc.
David R. Tuthill, Director, IDWR
Gary Spackman, Water Management Administrator, IDWR
Allen Merritt, IDWR Southern Region Manager
Cindy Yenter, Watermaster, Water District 130
Allan Wylie, IDWR
Big Wood Canal Company
North Snake Ground Water District

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These water rights were issued individually, why are all pumping areas treated exactly the same - Those able to show little or no depletion vs. Those with 100% depletion?

This is a defined geographic area with the ability to demonstrate its use + Recharge -

(over)

The information on "Other Streams + Systems" is interesting and complicated - The fact that the ditch main leaks more water than the wells, ~~the~~ irrigation + domestic, are withdrawing is simple + provable.

