

To Keith Higginson  
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BIG LOST RIVER WATER USERS ASSOCIATION  
STATEMENT AND EXPLANATION OF POSITION

Having felt for some time that several aspects of water law in our geographic area, particularly the operation of the Big Lost River Irrigation District, were not being managed in an appropriate manner, we have been anxious to make some corrections. These corrections, however, have been difficult, if not almost impossible, to achieve until we moved into a less than normal annual precipitation cycle.

Because of this "drier" trend, we have gained the public support to address the following issues:

1. A number of large irrigation wells have been developed and pumped for a number of years without any approval through the license procedure administered by the I.D.W.R. Those applications were protested in public hearings, but were not acted upon by the state because of the Swan Falls moratorium. Privately, however, the wells were developed and pumped. Cease and Desist Orders have recently been delivered to most and it is hoped that at the conclusion of the current hearing process, these wells will be either: (a) inoperable, (b) reconstructed or, (c) moved so they will no longer deplete prior rights of both surface and ground-water rights.

2. A larger and more damaging practice is the pumping of wells that have previously been licensed as a supplementary or primary right for a particular piece of ground, but which are not being used where they were licensed. Instead, these rights are being exchanged, purchased and/or run to locations several miles from the original licensed area. There are approximately 40 to 50 of these wells that must be corrected as they are also contributing to serious ground-water depletion in short water years.

3. Another problem that enlarges the effect of item No. 2 is the delivery of decreed surface and storage water to lands outside district boundaries that result from exchange pumping agreements. This creates overdrafts outside the district, a lack of ground-water recharge, and depletion of surface supplies in the district, and other related areas.

We believe that these practices must be stopped.

4. Another practice that we feel needs to be corrected is that of pumping for credit. That practice involves a land owner who pumps his well into the delivery system of the District whether he may or may not be irrigating, and receives storage credit in the Mackay Dam for the amount of his water pumped. This pump credit may or may not be used by

him, but most often is delivered to another land owner either inside or outside the District boundaries. This practice is most often used in conjunction with those practices discussed in items 2 and 3, above.

5. Another practice used in conjunction with the foregoing is that of the diversion of decreed surface and storage water to land outside district boundaries and credited on the district office books as pump water, thereby giving a false impression of propriety. (Refer to attached exhibit No. 1.)

6. We believe that the current minimum stream flow in the amount of 50 cfs is insufficient to reach the mouth of the valley during the winter months when a recharge of the aquifer could at least partially be achieved. An increase in the minimum stream flow plus clear authority for the district maintenance crew to remove beaver dams and other obstructions from the main channel of the Big Lost River, both above and below the Mackay Dam, would greatly improve this situation.

We believe that the responsibility for the solution of the concerns listed above must be shared by the local irrigation district board and the I.D.W.R. We have made some changes in the irrigation board membership and are currently involved in the nomination and election of two additional new board members. We are convinced that if we can make these changes in board members, we can correct many of our problems locally.

These areas of concern must also be addressed by the I.D.W.R. and we realize that their responsibility is going to be difficult because of public and political pressure, which brings us to the underlying reason for the meeting with Governor Andrus. Mr. Sigginson has shown great interest and has taken several significant steps in helping to correct our problems. We feel that he needs all the support possible from the Governor's office in order that he may accomplish a difficult task.

In summary, our request is really quite simple. All we are asking is that prior surface and ground-water rights be protected through the enforcement of Idaho's statutes pertaining to water law. We believe that if the above areas of concern are corrected that the Big Lost River Valley can enjoy improved economic, ecological and environmental conditions, and a sustained water supply for this and succeeding generations.

Sincerely,

Big Lost River Water Users  
Association

present method now being implemented is as follows:

All of the pumps referenced are unable to pump into our canal system. However these people have decreed and available storage water (in some cases).

Juel orders water and tells the Ditchrider to give him credit from Rick Reynolds.

He is charged for his water delivery plus shrink (and given the credit as noted above). He is given 300" per day credit and charged for whatever he uses. Then the ditchrider adds that 300" to charges for Rick Reynolds--if Rick has ordered water he is charged shrink plus the 300" credit given to Juel.

What is happening, in effect, is that Juel has actually purchased decreed and storage water since the pump water cannot reach our canal for delivery. He may call it pump water, but it actually is as stated.

It's true that if the pump water could reach our canals there would not be any difference, but since that pump water does not reach our canals, we are not receiving extra water to deliver, all we are doing is charging his deliveries to whomever he purchases the water from.

This same situation exists with anyone who has a well that does not pump into our canal: Leo Jensen, Craig Stewart, Kirby Jensen and possibly to start soon, Mr. Hibarger.

The difficulty in this situation is that if the wells pumped directly into our canal, there would be no question at all--but by letting Juel use their decreed water we are breaking the law which states: Decreed water must go to the next user in time unless it is used for rotation in Juel's case there is not a rotation as he does not have any water. There is not any water exchange for the very same reason, he cannot exchange what he does not have.

It has always been the policy of the Irrigation District that Storage water could not be delivered outside of its District boundaries because that is the land that it is appurtenant to.

By doing this type of delivery the Irrigation District is allowing Storage water out of its boundaries. At least, so it appears. Because once again, if the well pumped into our canal there would be no problem, paper work would show Leo pumping into the canal and Juel getting the credit. But now, the paper work shows Juel getting a credit by charging it as a delivery to Leo.

By charging correctly these credits our records now show Rick overdrafted (3572) which means that Juel has received more credits than Rick had available.

It would be much easier for the ditchrider and bookkeeping if transfers for a certain amount were credited to Juel's cards--that way there could be no overdrafting as there is now. The control would be better for all concerned. Except that we aren't supposed to do this type of operation.