

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF THE PROPOSED )  
CREATION OF A WATER DISTRICT )  
IN THE OAKLEY VALLEY AREA IN )  
ADMINISTRATIVE BASIN 45 )  
\_\_\_\_\_ )

**TRANSCRIPT OF HEARING**

Conducted December 15, 2005, Burley, Idaho  
Before Presiding Officer Karl J. Dreher,  
Director, Idaho Department of Water Resources

Transcribed by Patsy McGourty  
Administrative Assistant  
Department of water Resources

Proceedings transcribed from electronic sound recording.

1 KARL DREHER: Good evening. My name's Karl J. Dreher. I'm the Director of the  
2 Idaho Department of Water Resources. I'm serving as the presiding officer in  
3 this matter which concerns the proposed creation of a water district for a portion  
4 of the Eastern Snake Plain Aquifer within the Department Administrative Basin  
5 31 and 32. Let's go off the record for a minute.

6 Before we went off the record, I referenced...while we were still on the  
7 record, I referenced that this matter concerns creating a water district for portions  
8 of the Department Administrative Basin 31 and 32. That was incorrect. It is the  
9 Department Administrative Basin 45. And it's only for the purposes of tonight's  
10 hearing, it's only Administrative Basin 45 that's affected by this.

11 The provisions of Idaho Code § 42-604 require that this hearing be held  
12 prior to the creation of a water district by the person in my position. The hearing  
13 is being conducted on December 15, 2005, commencing at about five minutes  
14 after eight at the Burley City Hall Council Chambers located at 1401 Overland  
15 Avenue in Burley, Idaho.

16 The purpose of this hearing is to provide effective water right holders or  
17 their representatives an opportunity to make an oral statement on the record  
18 stating their position, views or concerns about the creation of a proposed water  
19 district. For the purposes of this hearing, persons making statements do not  
20 need to be sworn in nor will they be subject to cross-examination. All persons  
21 signing up to speak will be heard, but then if time permits we will give others an  
22 opportunity to be heard if they have changed their mind about speaking.

1 Notice of hearing was mailed to each affected water user in the proposed  
2 district as required under the provisions of Idaho Code § 42-604. In addition,  
3 notice was published in the Times News of Twin Falls and the South Idaho Press  
4 of Cassia County two newspapers of general circulation within the area of the  
5 proposed district. On November 29, 2005 Mr. David Tuthill and Mr. Tim Luke of  
6 the Department of Water Resources held a public information meeting at the  
7 Burley City Hall, Council Chambers to review the reasons for the creation of the  
8 proposed district and to describe the duties that the water master of the district  
9 would be expected to carry out under the supervision of the person in my  
10 position.

11 If there are no further questions, we're now at the point where we can  
12 begin taking statements and comments and from those persons who desire to be  
13 heard. Now as you come forward you need to state your name and address for  
14 the record and you also need to state whether you're representing yourself or  
15 whether you're representing some type of entity, a company, irrigation, canal  
16 company, whatever the case may be. So at this point, I'd ask Mr. Randy Brown  
17 of Murtaugh to come forward. Again please state your name and address for the  
18 record.

19 **RANDY BROWN:** Randy Brown, 4398 E 2900 N, Murtaugh, Idaho. I'm here to  
20 represent Southwest Irrigation District. We were involved in the early-proposed  
21 130 in which there was rumor that we might be part of, and we could see that the  
22 problems that were on the North side of the river were not the same hydrology as  
23 what we considered on the South side of the river. So we were hopeful that we

1 would not be included in 130, that there would be a new water district made on  
2 the South side which serve the interests of our district because we have different  
3 hydrology and different issues. We're glad that there is this new proposal for  
4 140. I think it will best serve the interests of our district. We do have ... in the  
5 boundary I represent the West side of our district. We do have a few water rights  
6 that are not in Basin 45 and we would hope that the entire boundary of the  
7 Southwest would be included in 140.

8 DREHER: Okay, these rights that you speak of that are not within Basin 45, where are  
9 they at in the adjudication, do you know?

10 BROWN: They're not before the court now like 45 is.

11 DREHER: Okay.

12 BROWN: And there's only a few dozen so it's not a great number. And it's because of  
13 our boundary we'd like to have them included if possible.

14 DREHER: Okay, but you recognize that that may be at a subsequent time.

15 BROWN: Right. A different time.

16 DREHER: Okay. Very good. Thank you.

17 BROWN: That's all I have to say.

18 DREHER: Grant Wyatt. Okay, I'm sorry.

19 GRANT WYATT: Okay, well, I guess Randy probably told you all I can think of except  
20 when ...a couple of years ago when it looked like the department was going to  
21 include ...we were all going to come into a water district of some kind, it looked  
22 like we were going to be included in 130. We met with Karl and Tim. We tried to  
23 convince them because of the difference in a lot of the things that we're

1           happening out in our area. We had a lot of water coming out of South Hills. We  
2           had Dry Creek, Cottonwood Creek and we were getting some water even out of  
3           the Oakley Reservoir, we had water sources that were much different than just  
4           straight pumping, and all these areas were in our district. We had a couple of  
5           aquifers, or several aquifers actually along the rim of the mountains that were  
6           probably totally not connected to the Snake River Plain in many areas, and so we  
7           met with the department and asked them if they would consider making 45 a  
8           separate water district so because of the difference in the problems we had, and  
9           they were good enough to do that and I think it's....they worked with us and I  
10          think it worked out well for us and we feel fairly comfortable in seeing this come  
11          to pass. We'd have liked to it to never happen, but inasmuch as it's here, we'd  
12          like to be able to work with the department as well as we can.

13       DREHER: Okay, thank you. Carl Austin.

14       CARL AUSTIN: My name is Carl Austin, representing myself as the owner with my wife  
15          of Double Diamond Ranch located at 3100 S Double Diamond Ranch Road,  
16          South of Oakley. What I'd like to do this evening is to make a short presentation  
17          summarizing what our feelings are on this general subject and then I'll give you a  
18          very detailed written comment for you this evening.

19                 Based on current knowledge, the surface flowing hot water encountered  
20          by wells in and adjacent to the Goose Creek Basin in particularly those located  
21          on the Double Diamond Ranch represent geo-thermal leakage from a heat  
22          source located on the thrust ramp of a half-anticline that comprises the Cassia  
23          Mountains locally called the South Hills. The water enters the system from the

1 south and west most probably in Nevada. This water is absorbed with the heat  
2 source. It is expelled from the upper portion of the heat source, continues  
3 eastward up the thrust back and rises convectively as geo-thermal fluid and  
4 steam condensates, utilizing a prominent fracture pattern in the Southeastern  
5 quarter of the Northern of two visiculation structures that comprise the half-  
6 anticline. Surface leakage is very limited today. Fossil, that is self-sealed  
7 thermal spring in the Goose Creek Basin portion of the South Hills that occurred  
8 up at Blue Hill Creek could on the Double Diamond Ranch. Natural surface  
9 leakage still occurs at Nile Spring and at Gamble's Hole in Nevada and at one  
10 unnamed spring in the same area. The chemical and thermal differences one  
11 sees between nearby wells on the Double Diamond Ranch, Dennis Creek at the  
12 thermal waters produced by these wells rise from deep discreet fractures capped  
13 by an ardulacious seal and are not related to a common aquifer as the term is  
14 normally used in the field of hydrology. Regional fractures indicate the fluid these  
15 wells capped flow subsurface into Utah. The geothermal fluids tapped by deep  
16 wells upstream from the Oakley Reservoir should not be considered as  
17 contributing to the groundwater of the Oakley Basin or the Snake River  
18 depression. It should not be managed with them. Thank you very much.

19 DREHER: Thank you. Do you have a written statement that you'll leave with us?

20 AUSTIN: Probably more than you wanted to read.

21 DREHER: That's all right. Thank you. David Pickett.

22 DAVID PICKETT: My name's David Pickett. I reside at 1620 S 600 W in Oakley. I

23 represent the newly formed Goose Creek Irrigation District and I'm on the board

1 of Oakley Canal Company. I'd just like to mention that the newly formed Goose  
2 Creek Irrigation District basically encompasses the boundaries of Oakley Canal  
3 Company. We're grateful that the department has noticed the unique  
4 composition of the water sources South of the river in Basin 45 and has chosen  
5 to form this Water District 140. Just a couple of issues that we'd like to mention.  
6 We'd hope that the department would recognize the efforts that have been made  
7 by the Southwest Irrigation District for the past 20 years in preparing mitigation  
8 plans and the efforts that have been made to mitigate over that period of time  
9 and feel that the department in many ways does recognize that by the formation  
10 of this water district separate from 130. We would also encourage the  
11 department to consider as it is considering the water master for 140 and the role  
12 and responsibilities of that water master that they consider the fact that  
13 Southwest Irrigation District and the Goose Creek Irrigation District will have field  
14 officers who will be making measurement in those areas presently as does  
15 Oakley Canal Company as well as the other small water districts that serve  
16 Cottonwood Drainage, Goose Creek Drainage, Birch Creek, Basin Creek, etc.,  
17 and it would be our desire that the water master for 140 would more of a  
18 information gatherer rather than a field officer. We feel like we'd be duplicating  
19 duties. We recognize that the water master would have some auditorial role, an  
20 oversight role as we mentioned before, an inspector role of the practices of the  
21 water master, but it would be a waste of resources to duplicate a lot of that  
22 activity. So we hope that would be thoroughly considered because a lot of  
23 resource and money is going into paying people to take these measurements

1           presently. They're qualified and they're good people. So we hope that's taken  
2           into consideration. We thank you for your time and we may submit some more  
3           information later.

4 DREHER: Okay, a quick question. When was Goose Creek Irrigation District formed?

5 PICKETT: Just this past year.

6 DREHER: Okay. All right. Very good. Thank you. Randy Robinson.

7 PICKETT: Yeah, Goose Creek was hard Southwest just so you know a large part of it  
8           anyway.

9 RANDY ROBINSON: Randy Robinson, 1496 S 500 W, Oakley, Idaho, currently,  
10           chairman of the Oakley Canal Company. In the interest of time I concur with  
11           what Mr. Pickett has presented here and I would reserve the right to give written  
12           testimony at a later date.

13 DREHER: Okay, thank you. Earl Warthen.

14 EARL WARTHEN: Earl Warthen, 1047 S Highway 77, Albion. This is in response to  
15           the formation of the water district. On December 10, 2005 at 6:00 p.m. the  
16           chairman, water master, representatives of the City of Albion, local ground water  
17           and surface water users met to discuss the formation of .....and I've got ... this is  
18           incorrect but ground water district. I imagine that should read water district. It  
19           was the overall consensus of the group that the topographical fault lines and the  
20           drainage should form the boundaries of the district. The group found that the  
21           Albion Basin area would be best served as a ground water district, which should  
22           say water district of its own. The following is a list of the reasons for the decision.  
23           The Albion Basin sits by itself in an uplifted area bordered on the East and West

1 by major tertiary faults in an uplift, and separate from the Oakley fan and the  
2 Malta area. In reference to the department maps that I used were map No. 8  
3 from the Idaho Geological Survey and further defined in the Geological Map  
4 series, Pocatello Two Degrees Quadrangle Map. Second, the Oakley Valley falls  
5 in the West Cassia Soil Water Conservation District whereas the Albion Basin is  
6 in the East Cassia Soil Water Conservation District. Third, both the Malta and  
7 the Oakley fans are connected to the interstate waters of Utah and Nevada, Utah  
8 on the Malta side and Utah and Nevada on the Oakley side. Furthermore,  
9 number 4, both the Malta and the Oakley area have been designated critical  
10 groundwater areas. Fifth, approximately fifteen years ago the East Cassia Soil  
11 Water Conservation District petitioned the State of Idaho for a groundwater  
12 recharge district and still hopes to further that goal as these problems continue.  
13 In the Albion district hopefully was going through ... 15 years ago was where we  
14 could interchange our surface water rights to uses for groundwater recharge  
15 within that area because it's essentially lays within a closed basin. And that's  
16 probably enough.

17 DREHER: Let me ask you a question about this interchange of rights. You want to be  
18 able to use your surface water rights for recharge or you want to be able to divert  
19 ground water instead of surface water?

20 WARTHEN: We want hopefully to be able to divert our ground water for recharge, our  
21 surface water for recharge. I'm sorry.

22 DREHER: Okay, very good. Thank you. Don Bowden.

1 DON BOWDEN: I'd like to present you ....and I'll speak to that. My name is Don  
2 Bowden. I live at 363 South Main in the City of Albion and I'm here representing  
3 specifically the City of Albion and also indirectly other members of what is now  
4 currently known as sub basin 45F. I presented Karl with a map with a border of  
5 the sub-basin in Albion and to summarize what we would like to express here is  
6 we want...we would like the Department of Water Resources to recognize that  
7 that is a singular water source in that Basin and it's not hydrologically connected  
8 to anyone else in the proposed district of 140. The reason we're concerned with  
9 that is there was an incident some years ago when in fact a point of diversion  
10 was changed in fact from the Oakley side of things on the mountain there and re-  
11 established within the Albion Basin and because they're not hydrologically  
12 connected that ended up depriving some folks of their full water rights. We want  
13 the department to recognize that that is an isolated system if you will so that in  
14 the future in administering that basin that those kinds of things won't happen  
15 again in order to equitably administer that sub-basin. We're not adverse to being  
16 part of our neighbors and paying for this overhead that would be required for  
17 water masters but we would like to be designated as a separate district if you  
18 would give that consideration for those reasons so that in the future when  
19 mitigation ....is....we're not in the Snake River Plain Aquifer, but if mitigation  
20 becomes a requirement even for our sub basin depending on new science that  
21 may show up some day showing that it feeds the lower aquifer there on the  
22 northern boundary, we would like our basin to have its own consideration for an  
23 equitable administration of those kinds of concerns. I thank you for the

1 opportunity to share these thoughts with you and for having this hearing and I'll  
2 leave that map with you. We will also be sending, I might add, another packet  
3 with other written documentation that will show in more detail that that basin is  
4 indeed isolated hydrologically.

5 DREHER: Thank you. Okay, that's the end I believe of those who indicated they did  
6 want to testify. Is there somebody that planned to testify that I missed? Okay. Is  
7 there anybody that's had a change of heart that didn't want to testify but now  
8 you've heard something that would make you want to testify. Okay.

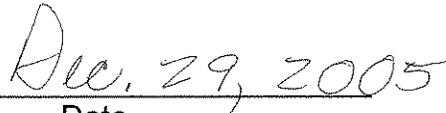
9 If there are no other people who desire to make a statement, then that  
10 would conclude the record of oral statements in this proceeding. Thank you all  
11 for your participation. The hearing record will remain open for a little more than  
12 ten days through December 28<sup>th</sup> to allow time for the submittal of additional  
13 written comments as provided in the notice of this proceeding and as required by  
14 Idaho Code § 42-604. I will issue a final order following the close of the comment  
15 period. A copy of the final order will be sent by regular mail to all holders of  
16 water rights affected by the order. Any party may file a petition for  
17 reconsideration with my office within 14 days of the service of the order. Any  
18 party feeling aggrieved by the order may seek judicial review before the district  
19 court within 28 days of the issuance of the final order or within 28 days of the  
20 action taken on any petition for reconsideration. Thank you all for attending. The  
21 record is now closed except for the taking of additional written comments.

PROCEEDINGS CONCLUDED  
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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

  
\_\_\_\_\_  
Patsy McGourty  
Transcriber

  
\_\_\_\_\_  
Date