BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 34-372A, 34-372B, AND 34-690B	))))	**ORDER**

This matter comes before the Director of the Department of Water Resources ("Director" or "Department") as a result of a Petition for Delivery Call received by the Department on June 28, 2004. The petition was filed by Jay V. Jensen, Jack A. Jensen, and L. Vaughn Jensen ("Jensens"). The petition seeks administration of ground water rights and surface water rights within Basin 34 (more precisely within Water District No. 34, Big Lost River). In particular, the petition seeks the distribution of water under the Department's Conjunctive Management Rules to the early priority surface water rights held by Jensens.

At the time Jensens initially requested that the watermaster distribute water to their water rights in the spring of 2004, Jensens also requested augmentation of flows in the Big Lost River to mitigate for the depletions to flows in the river caused by ground water pumping. The rules for administration and distribution of water rights within Water District No. 34, Big Lost River (IDAPA 37.03.12), require that the request for mitigation be made to the watermaster at the time delivery of the water rights is requested. The request for mitigation has not been satisfied, prompting the Petition for Delivery Call.

FINDINGS OF FACT

Relationship Between Ground Water Pumping and Big Lost River Flows

1. On May 27, 1992, the Director submitted a report to the Snake River Basin Adjudication (SRBA) District Court recommending the water rights having points of diversion located in the Big Lost River Basin ("Basin 34"). The report recommended a general provision that ground water and surface water in Basin 34 should be managed as hydraulically connected sources. Based on the Department's recommendations, almost all of the water rights have been decreed by the SRBA Court. On December 18, 1992, the SRBA Court issued a one-year order of interim administration for the 1993 irrigation season requiring that the water rights be administered based on recommendations of the Director and partial decrees issued by the court. The SRBA Court renewed the one-year order for the 1994 and 1995 irrigation seasons. On December 20, 1995, the SRBA Court issued a Permanent Order for Interim Administration in Reporting Area 1 (Basin 34).

2. In furtherance of the order of interim administration, on February 23, 1993, the Department ordered that Water District No. 34, Big Lost River, should be expanded to include

both ground water and surface water rights in the Big Lost River Basin. The Department began negotiating the promulgation of rules for the administration of water rights within Water District No. 34.

3. One of the purposes of rule promulgation was to establish how the water rights would be conjunctively administered. The Idaho Legislature appropriated $50,000 for a study of the ground and surface water sources of the Big Lost River Basin. The Idaho Water Resource Research Institute ("IWRRI") was retained to conduct the study. Gary Johnson, Dale Ralston, and Leland Mink of IWRRI prepared a report titled *Ground-Water Pumping Impacts On Surface Water Irrigation Diversions From Big Lost River*, December 1991(hereafter referred to as the "Big Lost River Report"). Analysis of data for the Big Lost River Report established a regression equation relating depletions of flows in the Big Lost River to the volume of ground water annually diverted. Based on the results of analyses described in the Big Lost River Report, the authors of the report estimated that the average annual diversion of ground water was 47,000 acre-feet. The estimated depletion to the Big Lost River determined using the regression equation was 13,000 acre-feet of surface water, or approximately 28 percent of the estimated annual volume of ground water diverted. The report acknowledged that depletions to the Big Lost River from both ground water diversions and increases in the consumptive use of surface water due to the development of more efficient irrigation practices accompanied by expansion of the acreage irrigated using surface water. The report did not specifically quantify the portion of the depletion caused solely by ground water diversions.

4. Holders of ground water rights in Water District No. 34 challenged the initial Big Lost River Report. The ground water right holders argued, among other things, that the Big Lost River Report did not quantify the portion of the depletion caused solely by ground water diversions.

5. The Department considered the arguments of the ground water right holders and based on further evaluation, assigned more than half of the depletions to an increase in the consumptive use of surface water due to development of more efficient irrigation practices and expansion of the acreage irrigated with surface water. The Department quantified the portion of the depletion caused solely by ground water diversions to be 13 percent of the volume of ground water diverted during an average year.

6. The Water Distribution Rules for Water District 34 were promulgated after determination of the depletion estimates caused by ground water diversions. The rules are identified as IDAPA 37.03.12.

7. IDAPA Rule 37.03.12.050.04 (referred to hereafter as "Rule 50.04") of the Water Distribution Rules states:

> Mitigation/Augmentation. Water users with water rights whose source is Big Lost River with their point of diversion downstream from Mackay Dam who seek to have the water supply for their water right augmented to provide for their water right the water supply that would have been available for diversion absent the diversion of ground water under junior water rights shall request mitigation pursuant to this rule. Water users who seek such mitigation from ground water users must notify the watermaster at the time those water users make their initial

request to the watermaster for delivery of their water right of their desire for mitigation. Mitigation of the effects of ground water diversion, when requested, will occur as more fully described below. (10-26-94)

a. Mitigation will not occur prior to May 1 or after October 15 of any year. (10-26-94)

b. Mitigation will be available to water rights with 1905 and earlier priority dates. (10-26-94)

c. Water rights will be eligible to receive mitigation through augmented natural flow water supply based upon a river depletion due to ground water diversions currently estimated to be thirteen percent (13%) of the average annual diversion from wells subject to conjunctive administration currently estimated to be forty-seven thousand (47,000) AFY or a depletion of six thousand one hundred ten (6,110) AFY. The estimated percentage of depletion and annual volume of diversion from wells will be reviewed annually by the director and modified as data becomes available to refine these estimates. Any revised estimate of depletion or annual diversion shall be presented to the water users at the annual meeting of Water District 34 prior to adoption of the values by order of the director. (10-26-94)

i. Natural flow will be assumed to be augmented by one-third (1/3) of the depletion during the first one-half (1/2) of the period of time that any 1905 or earlier water right being called for can not be filled by the natural flow through October 15 of each year. Natural flow will be assumed to be augmented by two-thirds (2/3) of the depletion during the second one half (1/2) of this period each year. (10-26-94)

ii. Water users who have requested mitigation and who have water rights being called for that could be filled by augmentation described in Rule Subsection 050.04.c.i shall be provided with water by augmenting the natural flow to the extent of their water right or the amount of water described in Rule Subsection 050.04.c.i., whichever is less. (10-26-94)

iii. Augmentation of natural flow for purposes of mitigation may be accomplished by making additional water available for diversion from the Big Lost River, including increased river flows resulting from recharge efforts approved by the director, or by adding water to canals or laterals. (10-26-94)

8. Rule 50.04 adopted the conclusions of the Big Lost River Report as amended by the Department. The conclusions were adopted to establish the factual basis for administration and to eliminate the need for additional proceedings to conjunctively administer the surface water and ground water rights within Water District No. 34.

Activities in Water District No. 34 Related to Water Distribution Rules

9. On April 21, 2004, Jay V. Jensen, Jack A. Jensen, and L. Vaughn Jensen ("Jensens") requested that the watermaster of Water District No. 34 distribute water to water rights nos. 34-372B, 34-00690B, and 34-00372A (hereafter referred to as the "Jensen water rights") to each of them respectively. The water rights are described as follows:

Water right No. 34-372A

Current Owner: Jack A. and Diana Jensen
Priority Date: June 1, 1883
Source: Big Lost River
Purpose of Use: Irrigation
Flow Rate: 3.2 cfs
Period of Use: May 1 – October 31
Point of Diversion: NW1/4SE1/4SE1/4, Section 4, Township 5N, Range 26E, B.M.
Place of Use: Section 4, Township 4N, Range 26E, B.M.

	Acres
NE1/4SE1/4	39.0
NW1/4SE1/4	39.0
SW1/4SE1/4	38.0
SE1/4SE1/4	36.0
Total Acres	152.0

Water Right No. 34-372B

Current Owner: L. Vaughn Jensen and Darlene B. Jensen
Priority Date: June 1, 1883
Source: Big Lost River
Purpose of Use: Irrigation
Flow Rate: 1.6 cfs
Period of Use: May 1 – October 31
Point of Diversion: NW1/4SE1/4SE1/4, Section 4, Township 5N, Range 26E, B.M.
Place of Use: Section 9, Township 4N, Range 26E, B.M.

	Acres
NW1/4NE1/4	27.0
SW1/4NE1/4	29.0
Total Acres	56.0

Water Right No. 34-690B

Current Owner: Jay V. Jensen and DeAnn N. Jensen
Priority Date: June 30, 1883
Source: Big Lost River
Purpose of Use: Irrigation
Flow Rate: 1.73 cfs
Period of Use: May 1 – October 31
Point of Diversion: NW1/4SE1/4SE1/4, Section 4, Township 5N, Range 26E, B.M.
Place of Use: Section 9, Township 4N, Range 26E, B.M.

	Acres
NE1/4SE1/4	37.0
NW1/4SE1/4	10.0
SW1/4SE1/4	10.0
SE1/4SE1/4	29.5
Total Acres	86.5

Simultaneous with the request for delivery, Jensens requested of the watermaster that junior ground water users mitigate for depletions pursuant to Rule 50.04.

10. In response to the request for mitigation, on May 13, 2004, the Department sent notice to all holders of ground water rights having priority dates later than the Jensen water rights notifying them of the request for mitigation and also informing them that they must mitigate for depletions caused by their ground water diversions. The letter also explained that holders of junior priority ground water rights could collectively mitigate for the depletions through Water District No. 34. The notice required that all proposed mitigation plans must be submitted on or before June 4, 2004. Portions of previously quoted Rule 50.04.c describe specific mitigation quantities and times for augmentation of stream flow. Rules 50.04.d and 50.03.e discuss the mitigation plans that can be submitted by the water district and alternative plans that can be submitted by individual right holders:

> d. Water District 34 is authorized to acquire, through the watermaster, water supplies necessary to augment natural flow for mitigation purposes as described in this rule. The watermaster will add the cost of acquiring the mitigation water to the annual assessment of ground water users subject to conjunctive administration, who do not provide separate augmentation pursuant to Rule Subsection 050.04.c.iii. or separate mitigation pursuant to a plan approved as provided by Rule Subsection 050.04.e., in the same proportion as each ground water user is assessed for the costs of the water district relative to all other ground water users. Ground water users who fail to pay the assessed costs for acquiring mitigation water shall be penalized in the same manner as any other water user failing to pay any water district assessment. (10-26-94)
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> e. Junior ground water users may submit an alternative mitigation plan(s), which identifies actions and measures to prevent or compensate for impacts of diversions by the junior ground water users, to the director for consideration pursuant to Rule 43 of the "Rules for Conjunctive Management of Surface and Ground Water Resources," IDAPA 37, Title 03, Chapter 11. (10-26-94)

11. In response to the letters sent to the holders of junior priority ground water rights, the advisory committee for Water District No. 34 met to discuss possible acquisition of mitigation water by the watermaster. On June 1, 2004, and again on June 4, 2004, the advisory committee adopted a conceptual mitigation plan. The conceptual mitigation plan proposed pumping water from an existing well that was not being used and delivering the water pumped to Jensens through a ditch. Jensens and the Department concluded the conceptual mitigation plan was feasible. The advisory committee recommended to the watermaster that he acquire the mitigation water on behalf of Water District No. 34.

12. Some of the holders of junior priority ground water rights in Water District No. 34 submitted individual plans of mitigation. The Department rejected all of the proposed individual mitigation plans because the proposed plans did not adequately compensate for depletions caused by the diversions of ground water by the holders of rights proposing individual mitigation.

13. Despite adoption by the advisory committee of the conceptual mitigation plan, the watermaster declined to acquire the mitigation water, maintaining that the mitigation water could only be acquired with the consensus of all the water right holders at a full water district meeting, and requested a special meeting of Water District No. 34.

14. On June 24, 2004, the Department sent letters to Jensens notifying them that the

conceptual mitigation plan would likely not be implemented and that mitigation water would probably not be provided under the Water Distribution Rules for Water District 34.

15. In response, Jensens filed their petition for delivery call pursuant to the conjunctive management rules.

Reasonableness of Moore Diversion

16. Jensens receive water authorized by the Jensen water rights from the Moore Canal. Water is diverted into the Moore Canal from the Big Lost River along the west bank in the SE¼ of Section 4, Township 5N, Range 26E, approximately opposite the Eastside Canal diversion on the east river bank. The diversion structure is constructed of concrete with three wooden, screw-operated, slide gates. All of the water in the Big Lost River can be diverted into the Moore Canal or the Eastside Canal.

17. A measuring device is located in the Moore Canal several hundred feet downstream of the diversion. The measuring device is a concrete, ramped, broad-crested weir with a 20-foot bottom width channel. The weir was designed by the USDA ARS in Kimberly, Idaho. The Big Lost Irrigation District ditch rider reads a staff gage on the weir side slope daily, and daily flows are reported weekly to the Department by the watermaster for Water District No. 34.

18. Department staff have inspected the diverting works and determined that the diversion works are adequate for diverting and regulating flows into the Moore canal. Staff have also inspected the ramped, broad-crested weir and verified the structure is sized adequately for measuring the range of flows that occur during the irrigation season. The rating table used by the Big Lost Irrigation District for the measurement device is also accurate and in compliance with Department standards.

19. Water diverted by Jensens under their water rights is monitored by the watermaster of Water District No. 34 and by the Big Lost River Irrigation District to insure Jensens' diversions do not exceed the limits of their water rights.

Availability of Water to Satisfy Jensens' Water Rights

20. The Big Lost River loses significant quantities of surface water because of percolation into the ground between Leslie and Moore. Nonetheless, historic diversion data from 1959 to 1971 and from 1975 to 1983 indicate that prior to and during the development of ground water rights, water was delivered to the Moore diversion throughout the entire irrigation season, including the months of August, September, and October, even during the low water years of 1959, 1960, 1961, 1966, 1977, and 1979.

21. During recent years of low surface water runoff, depletions to surface water flows in the Big Lost River caused by ground water diversions have contributed to reduce the natural flow in the Big Lost River causing premature water shortages at Jensens' point of diversion. The following are dates during the last three years of low surface water runoff when water was

no longer physically flowing in the Big Lost River for distribution to the Jensen water rights.

July 27, 2001 through October 15, 2001
July 30, 2002 through October 15, 2002
August 2, 2003 through October 15, 2003

22. Unavailability of water at the Moore diversion coincides nearly directly in time with the vacating of storage from Mackay Reservoir and the loss of the delivered storage that augments natural stream flows in the Big Lost River. The following are dates when storage water was no longer being delivered from Mackay Reservoir:

Year	Date When Storage Not Delivered	Date When Water Not Available at Moore Diversion
2001	July 16	July 27
2002	July 28	July 30
2003	August 4	August 2

23. The Department expects that storage in Mackay Reservoir will be depleted before August 1, 2004. The coincident unavailability of water to Jensens will follow shortly thereafter, and depletions to surface water flows resulting from the diversion of ground water under rights junior in priority to Jensens' will have reduced the quantity of water available to fill the Jensen water rights.

Conjunctive Management Rules

24. Idaho Code § 42-603 authorizes the Director "to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof." Promulgation of such rules and regulations must be in accordance with the procedures of chapter 52, title 67, Idaho Code.

25. On October 7, 1994, the Director issued *Order Adopting Final Rules*; the *Rules for Conjunctive Management of Surface and Ground Water Resources* (IDAPA 37.03.11) ("Conjunctive Management Rules"), promulgated pursuant to chapter 52, title 67, Idaho Code, and Idaho Code § 42-603.

26. The Conjunctive Management Rules "apply to all situations in the state where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply." IDAPA 37.03.11.020.01.

27. The Conjunctive Management Rules "acknowledge all elements of the prior appropriation doctrine as established by Idaho law." IDAPA 37.03.11.020.02.

28. The Conjunctive Management Rules "may require mitigation or staged or phased

curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right … ." IDAPA 37.03.11.020.04.

29. Pursuant to Idaho Code § 67-5291, the Conjunctive Management Rules were submitted to the 1st Regular Session of the 53rd Idaho Legislature (1995 session). During no legislative session, beginning with the 1st Regular Session of the 53rd Idaho Legislature, have the Conjunctive Management Rules been rejected, amended, or modified by the Idaho Legislature. Therefore, the Conjunctive Management Rules are final and effective.

Petition Filed by Jensens Seeking Administration of Water Rights

30. Rule 10.04 of the Conjunctive Management Rules defines a "delivery call" as: "A request from the holder of a water right for administration of water rights under the prior appropriation doctrine." The petition from Jensens seeking administration of water rights interfering with and impacting the Jensen water rights described in Finding of Fact No. 9 come within the definition of a delivery call.

31. Water District No. 34 contains ground water and surface water rights that are junior in priority to the Jensen water rights. Water diverted under these water rights is hydraulically connected to the source for the Jensen water rights. Such water rights interfere with and impact the Jensen water rights under certain conditions.

32. Junior priority surface water rights sought to be administered by the petition for delivery call are already being regulated by the watermaster of Water District No. 34.

33. Rule 40 of the Conjunctive Management Rules is titled "Responses to Calls for Water Delivery Made by the Holders of Senior-Priority Surface or Ground Water Rights Against the Holders of Junior-Priority Ground Water Rights from Areas Having a Common Ground Water Supply in an Organized Water District." Rule 40 applies to the delivery calls made by Jensens against the holders of junior priority ground water rights in Water District No. 34.

34. Matters expressed herein as a Finding of Fact that are later deemed to be a Conclusion of Law are hereby made as a Conclusion of Law.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the

prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho Code § 42-603, which grants the Director authority to adopt rules governing water distribution, provides as follows:

> The director of the department of water resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof. Promulgation of rules and regulations shall be in accordance with the procedures of chapter 52, title 67, Idaho Code.

In addition, Idaho Code § 42-1805(8) provides the Director with authority to "promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

3. It is the duty of a watermaster, acting under the supervision of the Director, to distribute water from the public water supplies within a water district among those holding rights to the use of the water in accordance with the respective priority of the rights subject to applicable Idaho law, including applicable rules promulgated pursuant to the Idaho Administrative Procedure Act. See Idaho Code § 42-607.

4. The Department adopted Conjunctive Management Rules, effective October 7, 1994. IDAPA 37.03.11. The Conjunctive Management Rules prescribe procedures for responding to a delivery call made by the holder of a senior priority surface or ground water right against junior priority ground water rights in an area having a common ground water supply. IDAPA 37.03.11.001.

5. Rule 10 of the Conjunctive Management Rules contains the following pertinent definitions:

> **01. Area Having a Common Ground Water Supply**. A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights. IDAPA 37.03.11.010.01.
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> **03. Conjunctive Management**. Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply. IDAPA 37.03.11.010.03.
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> **04. Delivery Call**. A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. IDAPA 37.03.11.010.04.

6. Rule 20 of the Conjunctive Management Rules contains the following pertinent statements of purpose and policies for conjunctive management of surface and ground water resources:

01. Distribution of Water Among the Holders of Senior and Junior-Priority Rights. The rules apply to all situations in the State where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply. IDAPA 37.03.11.020.01.

02. Prior Appropriation Doctrine. These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law. IDAPA 37.03.11.020.02.

04. Delivery Calls. These rules provide the basis and procedure for responding to delivery calls made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right. The principle of the futile call applies to the distribution of water under these rules. Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued. IDAPA 37.03.11.020.04.

7. Rule 40 of the Conjunctive Management Rules sets forth the following procedures to be followed for responses to calls for water delivery made by the holders of senior priority surface or ground water rights against the holders of junior priority ground water rights from areas having a common ground water supply in an organized water district. IDAPA 37.03.11.040.

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority water right (petitioner) alleging that by reason of diversion of water by the holders of one or more junior-priority ground water rights (respondents) from an area having a common ground water supply in an organized water district the petitioner is suffering material injury, and upon a finding by the Director as provided in Rule 42 that material injury is occurring, the Director, through the watermaster, shall:

a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year period to lessen the economic impact of immediate and complete curtailment; or

b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.

02. Regulation of Uses of Water by Watermaster. The Director, through the watermaster, shall regulate use of water within the water district pursuant to Idaho law and the priorities of water rights as provided in section 42-604, Idaho Code, and under the following procedures:

a. The watermaster shall determine the quantity of surface water of any stream included within the water district which is available for diversion and shall shut the headgates

of the holders of junior-priority surface water rights as necessary to assure that water is being diverted and used in accordance with the priorities of the respective water rights from the surface water source.

b. The watermaster shall regulate the diversion and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director.

c. Where a call is made by the holder of a senior-priority water right against the holder of a junior-priority ground water right in the water district the watermaster shall first determine whether a mitigation plan has been approved by the Director whereby diversion of ground water may be allowed to continue out of priority order. If the holder of a junior-priority ground water right is a participant in such approved mitigation plan, and is operating in conformance therewith, the watermaster shall allow the ground water use to continue out of priority.

d. The watermaster shall maintain records of the diversions of water by surface and ground water users within the water district and records of water provided and other compensation supplied under the approved mitigation plan which shall be compiled into the annual report which is required by section 42-606, Idaho Code.

e. Under the direction of the Department, watermasters of separate water districts shall cooperate and reciprocate in assisting each other in assuring that diversion and use of water under water rights is administered in a manner to assure protection of senior-priority water rights provided the relative priorities of the water rights within the separate water districts have been adjudicated.

03. Reasonable Exercise of Rights. In determining whether diversion and use of water under rights will be regulated under Rules 40.01.a., or 40.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste.

04. Actions of the Watermaster under a Mitigation Plan. Where a mitigation plan has been approved as provided in Rule 42, the watermaster may permit the diversion and use of ground water to continue out of priority order within the water district provided the holder of the junior-priority ground water right operates in accordance with such approved mitigation plan.

8. Rule 40.05. describes actions of the department if a plan of mitigation is approved by the Director and the water users do not comply with the provisions of the mitigation plan:

05. Curtailment Of Use Where Diversions Not In Accord With Mitigation Plan Or Mitigation Plan Is Not Effective. Where a mitigation plan has been approved and the junior-priority ground water user fails to operate in accordance with such approved plan or the plan fails to mitigate the material injury resulting from diversion and use of water by holders of junior-priority water rights, the watermaster will notify the Director who will immediately issue cease and desist orders and direct the watermaster to terminate the out-of-priority use of ground water rights otherwise benefiting from such plan or take such other actions as

provided in the mitigation plan to ensure protection of senior-priority water rights.

9. Rule 42 of the Conjunctive Management Rules sets forth the factors the Director may consider in determining material injury and the reasonableness of water diversions:

> **01**. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following:
>
> **a**. The amount of water available in the source from which the water right is diverted.
>
> **b**. The effort or expense of the holder of the water right to divert water from the source.
>
> **c**. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply.
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> **d**. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application.
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> **e**. The amount of water being diverted and used compared to the water rights.
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> **f**. The existence of water measuring and recording devices.
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> **g**. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system.
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> **h**. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority.
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> **02**. The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan.

10. The Director expanded the boundaries of Water District No. 34 to provide for the administration of ground water rights in Basin 34 pursuant to the provisions of chapter 6, title 42,

Idaho Code, for the protection of earlier priority surface and ground water rights.

11. Water right holders diverting water from points of diversion located within Water District No. 34 elected a watermaster at the annual water district meeting to perform the statutory duties of a watermaster in accordance with guidelines, direction, and supervision provided by the Director.

12. The petition for delivery call received from Jensens is a delivery call as defined by Rule 10.04 of the Conjunctive Management Rules against junior priority ground water rights.

13. Rule 40 of the Conjunctive Management Rules applies to the delivery calls made by Jensens against the holders of junior priority ground water rights in Water District No. 34.

14. Rules 40 and 42 of the Conjunctive Management Rules require the Director to make determinations regarding "material injury" and the "reasonableness of water diversions" in responding to a delivery call against junior priority ground water rights in Water District No. 34.

15. At present, water is being delivered to the Jensen water rights. The Department must determine material injury by determining whether diversion of ground water that is hydraulically connected to the Big Lost River, under rights junior in priority to Jensens', will deplete surface water that would otherwise be available when needed under the Jensen water rights for the entire irrigation season, that is whether the Jensen water rights would have been filled and beneficially used but for the depletions caused by ground water diversions.

16. Based on analysis of historical delivery records, the Jensen water rights would have been deliverable for the entire 2004 irrigation season but for the depletions to the Big Lost River resulting from ground water diversions under junior priority rights.

17. Ground water diversions during 2004 under junior priority rights will contribute to depletions to the Big Lost River causing water to be unavailable to divert under the senior priority Jensen water rights from approximately August 1, 2004, through October 15, 2004.

18. Continued diversion of ground water under junior priority rights and the associated depletions will cause shortages in the flows of the Big Lost River that will deprive Jensens of water they are entitled to divert under the priority of the Jensen water rights. Continued ground water diversions in 2004 under junior priority rights causes material injury to the Jensen water rights.

19. The Moore Canal diversion is reasonably constructed to divert water under the Jensen water rights. The measuring device associated with the diversion structure distributing water to Jensens complies with the Department's measurement standards. The Jensen water rights authorize standard diversion and use quantities for irrigation established by the Department. Diversion of water by Jensens is adequately monitored to assure adherence to their water right limitations. Jensens' diversion and use of water is reasonable.

20. Rule 42.02 of the Conjunctive Management Rules provides that the holder of a

senior priority surface water right is prevented from making a delivery call for curtailment of pumping of any well under a junior priority ground water right if the ground water right is covered by an approved and **effectively operating** mitigation plan. (Emphasis added). IDAPA 37.03.11.042.02.

21. Rule 40.02.b of the Conjunctive Management Rules requires the watermaster of Water District No. 34 to "regulate the diversions and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director." IDAPA 37.03.11.040.02.b.

22. The Water Distribution Rules for Water District No. 34 establish an approved mitigation plan. The plan requires that, upon request to the watermaster for mitigation by a senior water right holder, the junior water right holders must provide 6,110 acre feet of water to augment the flows of the Big Lost River. The junior water right holders did not provide the mitigation water as required by the mitigation plan. Although there is an approved mitigation plan, the mitigation plan is not "effectively operating."

23. Rule 40.05 of the Conjunctive Management Rules states that the Director shall immediately issue cease and desist orders to junior water right holders and direct the watermaster to shut off diversions of ground water to the junior water right holders who are not following the provisions of an approved mitigation plan. Rule 40.05 also states that the Director may order other actions according to the mitigation plan.

ORDER

In response to the water delivery call made by Jensens, and for the reasons stated in the foregoing Findings of Fact and Conclusions of Law, the Director orders as follows:

IT IS HEREBY ORDERED that the holders of ground water rights bearing priority dates later than June 30, 1883, in Water District No. 34 must immediately provide a collective total of 6,110 acre-feet of storage water to augment the flow of the Big Lost River or implement an alternative mitigation plan that provides an equal amount of replacement water to the Jensen water rights. The conceptual mitigation plan previously adopted by the advisory committee for Water District No. 34 will mitigate for the depletions caused by ground water diversions under junior priority rights if the plan is implemented and executed.

IT IS FURTHER ORDERED that, if an effective mitigation plan is not operating on or before July 22, 2004, all holders of consumptive ground water rights in Water District No. 34 that are junior in priority to June 30, 1883, including consumptive ground water rights for agricultural, commercial, industrial, and municipal or other uses, other than small domestic and stockwater rights as defined in Idaho Code §§ 42-111 and 42-1401A(11), shall immediately cease and desist diverting ground water until a mitigation plan is approved by the Director and is fully operational.

IT IS FURTHER ORDERED that an individual junior ground water right holder may propose its own mitigation plan and if after review, approval, and full implementation, an individual water right holder mitigates fully for depletions caused by its individual diversion of ground water under a junior priority right, the individual water right holder may continue to divert ground water out of priority.

IT IS FURTHER ORDERED that beginning July 23, 2004, the watermaster shall curtail diversions of ground water under all junior priority ground water rights that are not covered by an approved and effectively operating mitigation plan, other than small domestic and stockwater rights as defined in Idaho Code §§ 42-111 and 42-1401A(11).

IT IS FURTHER ORDERED that any person aggrieved by this decision shall be entitled to a hearing before the Director to contest the action taken provided the person files with the Director, within fifteen (15) days after receipt of written notice of this order or receipt of actual notice, a written petition stating the grounds for contesting the action and requesting a hearing. Any hearing conducted shall be in accordance with the provisions of chapter 52, title 67, Idaho Code, and the Rules of Procedure of the Department, IDAPA 37.01.01. Judicial review of any final order of the Director issued following the hearing may be had pursuant to Section 42-1701A(4), Idaho Code.

DATED this 12th day of July, 2004.

KARL J. DREHER
Director

FirstName	LastName	OrganizationName	StreetAddress	City	StateCode	PostalCode
		PARKINSON FARMS	2253 N 3100 W	ARCO	ID	83213
		SUNSET TRUST ORGANIZATION	RT 1 BOX 203	ARCO	ID	83213
		SPOUSE	3142 CANNON RD	ARCO	ID	83213
		CITY OF ARCO	PO BOX 196	ARCO	ID	83213
		DISTRICT #111	PO BOX 89	ARCO	ID	83213
		CITY OF BUTTE CITY	RT 1 BOX 162	ARCO	ID	83213
		US DEPT OF INTERIOR	1387 S VINNELL WAY	BOISE	ID	83709-1657
		ACTING THROUGH	9173 W BARNES STE B	BOISE	ID	83709-1555
		ACTING THROUGH	IDAHO STATE OFFICE	BOISE	ID	83709-1657
		CUSTER SPRINGS LLC	1231 MAIN ST	CHALLIS	ID	83226
		COUNTY OF CUSTER FAIR BOARD	PO BOX 385	CHALLIS	ID	83226
		SHELTON FAMILY TRUST	319 HARVARD AVE	CLAREMONT	CA	81711
		ESTATE OF GEORGE R HONE	RT 1 BOX 26	DARLINGTON	ID	83231
		6 X RANCH LLC	PO BOX 12625	FRESNO	CA	93778
		J - P RANCH INC	987 S 55 W	IDAHO FALLS	ID	83402
		THREE IN ONE RANCH LLC	PO BOX 486	JEROME	ID	83338
		IDAHO COWBOY INC	PO BOX 856	KETCHUM	ID	83440
		REVOCABLE LIVING TRUST	3939 HWY 93	LESLIE	ID	83255
		DONAHUE RANCH LP	5458 FISH HATCHERY RD	MACKAY	ID	83251
		DICKEY LIVESTOCK INC	5915 HWY 93	MACKAY	ID	83251
		BIG LOST RIVER CEMETERY DIST	RT 1 BOX 20	MACKAY	ID	83251
		ESTATE OF ORVIL S ADAMS	RT 1 BOX 20	MACKAY	ID	83251
		RAMSHORN GRAZING ASSN INC	PO BOX 329	MACKAY	ID	83251
		CITY OF MACKAY	PO BOX 509	MACKAY	ID	83251
		MOORE WATER & SEWER ASSN	PO BOX 638	MOORE	ID	83255
		LATTER DAY SAINTS	12TH FLOOR EAST	SALT LAKE CITY	UT	84150-6312
		VALLEY VISTA CARE CENTER	820 ELM ST	ST MARIES	ID	83861
		L & S PARTNERS	PO BOX B	TWIN FALLS	ID	83303-0015
EVERETT T	ACOR		1470 N 750 E	SHELLEY	ID	83274
KURT P	ACOR		PO BOX 63C	MOORE	ID	83255
EVERETT T	ACOR JR		3196 N YELLOWSTONE HWY	IDAHO FALLS	ID	83401
DON A	AIKELE		RT 1 BOX 60	MOORE	ID	83255
ERIC	AIKELE		PO BOX 210	ARCO	ID	83213
HERMAN	AIKELE		3477 W 2700 N	MOORE	ID	83255
JUEL	AIKELE		3575 W 2500 N BOX 63D	MOORE	ID	83255
MR OR MRS	AIKELE		RT 1 BOX 63F	MOORE	ID	83255
MR OR MRS	ALBER		PO BOX 180	MACKAY	ID	83251
DUANE	ALBERT		4003 W 4100 N	MACKAY	ID	83251
C IRENE	ALLEN		RT 1 BOX 125	ARCO	ID	83213
ANTHONY O	ALOSI		4129 N 4100 WEST	MACKAY	ID	83251
ANTHONY O	ALOSI		2040 SAN PEDRO	MORGAN HILL	CA	95037
BRIAN & MONICA	ANDERSEN		2358 N 3100 W	ARCO	ID	83213
JAY A	ANDERSEN		RT 1 BOX 41	MOORE	ID	83255
LARMAN D	ANDERSEN		RT 1 BOX 52	MOORE	ID	83255
MR OR MRS	ANDERSEN		3375 W 2780 N	MOORE	ID	83255
MR OR MRS	ANDERSEN		RT 1 BOX 40	MOORE	ID	83255
MR OR MRS	ANDERSEN		RT 1 BOX 49	MOORE	ID	83255
BRIAN M	ANDERSON		PO BOX 308	ARCO	ID	83213
MAURICE H	ANDERSON		PO BOX 131	ARCO	ID	83213

FirstName	LastName	OrganizationName	StreetAddress	City	StateCode	PostalCode
MR OR MRS	ANDERSON		RT 1 BOX 18	MACKAY	ID	83251
LAWRENCE	BABCOCK	GRANITE TRUST ORGANIZATION	RT 1 BOX 66	MOORE	ID	83255
MR OR MRS	BABCOCK		PO BOX 14	MOORE	ID	83255
REUBEN H	BABCOCK		ROUTE 1 BOX 14	MOORE	ID	83255
MR OR MRS	BABNEAU		4316 HOUSTON RD	MACKAY	ID	83251
ARLENE	BAILEY		412 HIGHLAND BLVD	BRIGHAM CITY	UT	84302
MR OR MRS	BALDWIN		3104 N 3400 W	MOORE	ID	83255
MR OR MRS	BANTA		PO BOX 491	ARCO	ID	83213
MR OR MRS	BANTA		3370 EIGHTH DR	BAKER CITY	OR	97814
MR OR MRS	BARNES		PO BOX 808	ARCO	ID	83213
MR OR MRS	BARNUM		3646 W ANTELOPE RD	MOORE	ID	83255
STEPHEN	BAUCHMAN		PO BOX 10	CHALLIS	ID	83226
MR OR MRS	BEAL		PO BOX 31	MOORE	ID	83255
SETH	BEAL		2827 NORTH 3375 WEST / BOX 46 B	MOORE	ID	83255
SHELLEY	BEAL		PO BOX 46B	MOORE	ID	83255
LORA LEE	BECK		2549 US HWY 93 N	ARCO	ID	83213
WILBERT R	BECK		RT 1 BOX 477	ARCO	ID	83213
MR OR MRS	BELL		RT 1 BOX 58	DARLINGTON	ID	83231
WILLARD	BELL		756 15TH AVENUE EAST	JEROME	ID	83338
RITA	BENNETT		185 HYNDMAN VIEW DR	HAILEY	ID	83333
MR OR MRS	BEVERLAND		PO BOX 43	ARCO	ID	83213
LLOYD A	BINGHAM		PO BOX 21	MOORE	ID	83255
MAX	BINGHAM		3861 N HIGHWAY	MOORE	ID	83255
MR OR MRS	BINGHAM		520 VISTA DR	CLINTON	TN	37716
MR OR MRS	BINGHAM		RT 1 BOX 30	MACKAY	ID	83251
BRUCE E	BLACKMER		3264 W 2900 N	MOORE	ID	83255
GARTH B	BLATTNER		307 BLATTNER LN	ARCO	ID	83213
BRUCE	BLEAK		3000 N 3350 W	MOORE	ID	83255
MR OR MRS	BLEAK		RT 1 BOX 27	MOORE	ID	83255
JOSEPH	BOWDEN		1012 E MUTTON HOLLOW RD	KAYSVILLE	UT	84037
MR OR MRS	BOWMAN		RT 1 BOX 113	MOORE	ID	83255
MR OR MRS	BOWN		RT 1 BOX 257	ARCO	ID	83213
MR OR MRS	BRADFORD		3776 W 3700 N	DARLINGTON	ID	83255
MR OR MRS	BROWN		3424 N 3350 W	MOORE	ID	83255
MR OR MRS	BROWNE		RT 1 BOX 26	MOORE	ID	83255
MR OR MRS	BURNETT		RT 1 BOX 5	MOORE	ID	83255
FRED	BURT	*c/o Ken BuckWalter*	PO BOX 216	MACKAY	ID	83251
MR OR MRS	BURT		3193 N HWY 93	MOORE	ID	83255
KIM	BURWELL		4249 US HWY 93	MACKAY	ID	83251
MR OR MRS	BUXTON		RT 1 BOX 231	ARCO	ID	83213
GERI	CAMMACK-HALL		RT 1 BOX 128	MOORE	ID	83255
MR OR MRS	CAMPBELL		PO BOX 724	ARCO	ID	83213
NATHAN D	CARPENTER		PO BOX 307	ARCO	ID	83213
ALEXANDER	CHERIAN		PO BOX 720	KETCHUM	ID	83340
PATRICIA J	CLARY		PO BOX 385	ARCO	ID	83213
DEAN V	COBURN		RT 1 BOX 1067	MACKAY	ID	83255
LAVERNE	COBURN		4128 US HIGHWAY 93	LESLIE	ID	83255
MR OR MRS	COBURN		PO BOX 435	MOORE	ID	83255
MR OR MRS	COLE		3685 US HWY 93 N	MOORE	ID	83255

FirstName	LastName	OrganizationName	StreetAddress	City	StateCode	PostalCode
FLOYD L, JR.	COLLINS		PO BOX 336	ARCO	ID	83213
F. SCOTT	COLSON		PO BOX 173	MACKAY	ID	83251
HARRY J	CRAWFORD		RT 1 BOX 8	DARLINGTON	ID	83231
BOB	CRUMP		PO BOX 151	PROCTOR	MT	59929
MR OR MRS	DAINS		RT 1 BOX 27B	MACKAY	ID	83251
MR OR MRS	DAMIANA		RT 1 BOX 113 A	MOORE	ID	83255
MR OR MRS	DIERS		RT 1 BOX 374	ARCO	ID	83213
TERRENCE V	DONAHUE		5448 FISH HATCHERY ROAD	MACKAY	ID	83251
MIKE	DOTZENROD		3776 W 3700 N	MOORE	ID	83255
MR OR MRS	DUKE		RT 1 BOX 18A	DARLINGTON	ID	83231
LARRY P	DUNCAN		PO BOX 583	ARCO	ID	83213
MELVIN J	ELLWEIN		PO BOX 329	MACKAY	ID	83251
MR OR MRS	ELLWEIN		4160 HOUSTON RD	MACKAY	ID	83251
MR OR MRS	ERDMAN		15530 COUNTY RD 80	LIVERMORE	CO	80536
GREGORY JOHN	ESSER		PO BOX 902	MOORE	ID	83255
MR OR MRS	FELTON		PO BOX 779	KETCHUM	ID	83340
MR OR MRS	FOLKMAN		PO BOX 823	ARCO	ID	83213
RICHARD T	FREEMAN		RT 1 BOX 432	ARCO	ID	83213
MR OR MRS	FROST		1102 W 100 S	BLACKFOOT	ID	83221
ALBERT W. JR.	FULLMER		RT 1 BOX 44	DARLINGTON	ID	83255
MR OR MRS	FULLMER		PO BOX 112	MACKAY	ID	83251
MR OR MRS	FULLMER		PO BOX 192	MACKAY	ID	83251
GORDON	FULTON		5915 US HIGHWAY 93	MACKAY	ID	83251
MR OR MRS	GAMETT		PO BOX 907	MOORE	ID	83255
MR OR MRS	GILBERT		RT 1 BOX 106	DARLINGTON	ID	83231
ROBERT E	GILBERT		4052 N 3600 W	DARLINGTON	ID	83255
MR OR MRS	GOODSON		RT 1 BOX 30	MOORE	ID	83255
MR OR MRS	GUTHRIE		PO BOX 319	ARCO	ID	83213
MORGAN	HALL		PO BOX 642	ARCO	ID	83213
LONNIE	HANEY		206 N 9TH ST	POCATELLO	ID	83201
MR OR MRS	HANEY		RT 1 BOX 116	MOORE	ID	83255
MR OR MRS	HANKS		RT 1 BOX 23	DARLINGTON	ID	83255
MR OR MRS	HANSEN		RT 1 BOX 63A	MOORE	ID	83255
BILL	HARALSON		2750 N 3300 W	ARCO	ID	83213
BILLY L	HARALSON		RT 1 BOX 450	ARCO	ID	83213
BRAD	HARALSON		RT 1 BOX 455	ARCO	ID	83213
RODGER	HARP		4644 N HIGHWAY 93	MACKAY	ID	83251
MR OR MRS	HARWOOD		PO BOX 135	ARCO	ID	83213
MR OR MRS	HARWOOD		PO BOX 463	MOORE	ID	83255
DIANE K	HATMAKER		6139 TRAIL CREEK RD	MACKAY	ID	83251
PENNY R	HAWKINS		RT 1 BOX 91A	MOORE	ID	83255
DOUGLASS	HENDRICKS		RT 1 BOX 82	MOORE	ID	83255
MR OR MRS	HERBST		RT 1 BOX 271	ARCO	ID	83213
MR OR MRS	HIGBEE		PO BOX 133	MACKAY	ID	83251
DARLENE	HIGGINS		412 HIGHLAND BLVD	BRIGHAM CITY	UT	84302
LIN	HINTZE	HINTZE FARMS	PO BOX 125	MACKAY	ID	83251
MELVIN MARX	HINTZE		4372 HOUSTON ROAD	MACKAY	ID	83251
MR OR MRS	HINTZE		RT 1 BOX 14	MACKAY	ID	83251
MR OR MRS	HOLLOWWA		PO BOX 472	ARCO	ID	83213

FirstName	LastName	OrganizationName	StreetAddress	City	StateCode	PostalCode
MR OR MRS	HONE		RT 1 BOX 26	DARLINGTON	ID	83231
MR OR MRS	HUELSMAN		3450 N 3473 W	MOORE	ID	83255
MR OR MRS	HUELSMAN		RT 1 BOX 122A	MOORE	ID	83255
MR OR MRS	HUFFAKER		RT 1 BOX 56	DARLINGTON	ID	83231
CHARLES D	HUGGINS		RT 1 BOX 216	ARCO	ID	83213
MR OR MRS	HUGGINS		2132 N 2900 W	ARCO	ID	83213
KIRBY	JENSEN		2781 N 3375 W	MOORE	ID	83255
KIRBY A	JENSEN		RT 1 BOX 50	MOORE	ID	83255
L. VAUGHN	JENSEN		3347 W 2900 N	MOORE	ID	83255
MR OR MRS	JENSEN		RT 1 BOX 112A	MOORE	ID	83255
MR OR MRS	JENSEN		RT 1 BOX 32	MOORE	ID	83255
MR OR MRS	JENSEN		RT 1 BOX 93	MOORE	ID	83255
MR OR MRS	JOHNSON		6139 TRAIL CREEK RD	MACKAY	ID	83251
SCOTT	JOHNSON	CHURN DASHER RANCH	5366 FISH HATCHERY ROAD	MACKAY	ID	83251
PHYLLIS J	JONES	c/o 3262 W 3175 N	10042 N 5th W	IDAHO FALLS	ID	83401
MR OR MRS	KELLER		PO BOX 621	MOORE	ID	83255
MR OR MRS	KELLEY		RT 1 BOX 60	DARLINGTON	ID	83231
MARCUS	KELLY		3668 W 3550 N	MOORE	ID	83255
MR OR MRS	KIMBALL		PO BOX 273	MACKAY	ID	83251
MR OR MRS	KIMBALL		PO BOX 296	MACKAY	ID	83251
MR OR MRS	KING		RT 1 BOX 105	MOORE	ID	83255
MR OR MRS	KING		RT 1 BOX 107A	MOORE	ID	83255
STEPHEN K.	KING		3261 N 3250 W	MOORE	ID	83255
CONSTANTINE N	KITSOS		9000 NE 2ND AVE	MIAMI	FL	33138
VERNON ROBERT	KUBIAK		2444 CANNON RD	ARCO	ID	83213
HAROLD C	LAMBERT		RT 1 BOX 6	MACKAY	ID	83251
MR OR MRS	LAMBSON		PO BOX 262	MACKAY	ID	83251
MR OR MRS	LANDON		PO BOX 3	MACKAY	ID	83251
JOEL S	LEAVITT		PO BOX 221	MACKAY	ID	83251
MR OR MRS	LEMMON		RT 1 BOX 1	MACKAY	ID	83251
KEITH	LEWIS		4157 N 3600 W	DARLINGTON	ID	83255
DONALD L	LORD		4266 N 4100 W	MACKAY	ID	83251
JUDY	LORD		RT 1 BOX 29	MACKAY	ID	83251
MR OR MRS	LORD		RT 1 BOX 4	DARLINGTON	ID	83255
MR OR MRS	LORD		RT 1 BOX 5	DARLINGTON	ID	83255
MR OR MRS	LUTSCHG		PO BOX 86	ARCO	ID	83213
HARRIET J	MAKINSON		PO BOX 833	ARCO	ID	83213
KENNETH R	MALLO		RT 1 BOX 109	MOORE	ID	83255
MR OR MRS	MARINAC		PO BOX 252	MACKAY	ID	83251
MR OR MRS	MARZ		PO BOX 2360	SUN VALLEY	ID	83353
MR OR MRS	MATHEWS		PO BOX 553	ARCO	ID	83213
MR OR MRS	MAYNARD		PO BOX 293	ARCO	ID	83213
JOHN	MC AFFEE		PO BOX 186	ARCO	ID	83213
MR OR MRS	MC AFFEE		PO BOX 815	ARCO	ID	83213
MR OR MRS	MC AFFEE		PO BOX 282	MACKAY	ID	83251
RUTH G	MC AFFEE		RT 1	LESLIE	ID	83255
RYAN	MC AFFEE		4108 N 3900 W	LESLIE	ID	83255
SCOTT	MC AFFEE		4748 OLD LOOP ROAD	MACKAY	ID	83251
NANCY	MC CASLIN		5936 S 149TH ST	TUKWILA	WA	98168

FirstName	LastName	OrganizationName	StreetAddress	City	StateCode	PostalCode
MR OR MRS	MC CRAY		3470 COBBLESTONE LANE	IDAHO FALLS	ID	83404
DAN	MC INTOSH		PO BOX 605	MACKAY	ID	83251
JAMES	MC KELVEY		PO BOX 240	MACKAY	ID	83251
MR OR MRS	MC KNIGHT		PO BOX 93	MACKAY	ID	83251
SUSAN	MERRILL		RT 1 BOX 122A	MOORE	ID	83255
MR OR MRS	METCALF		3816 W 4050 N	MOORE	ID	83255
GREG J	MITCHELL		4306 HOUSTON RD	MACKAY	ID	83251
MR OR MRS	MONSON		RT 1 BOX 30	DARLINGTON	ID	83231
TERRY	MONSON		3629 W 4050 N	MOORE	ID	83255
MR OR MRS	MORRIS		2395 U S HWY 20-26	ARCO	ID	83213
MR OR MRS	MORRISSEY		RT 1 BOX 266	ARCO	ID	83213
MR OR MRS	MORT		RT 1 BOX 119A	MOORE	ID	83255
CAROL C	MOSS		RT 1 BOX 120	MOORE	ID	83255
MR OR MRS	MOSS		RT 1 BOX 104	MOORE	ID	83255
ROBERT K	MOSS		3490 W 3600 N	MOORE	ID	83255
BOB	MOZES		3320 W 3400 N	MOORE	ID	83255
MR OR MRS	MULLENIX		PO BOX 610	MO	ID	83255
MR OR MRS	NATION		RT 1 BOX 114	MOORE	ID	83255
MR OR MRS	NELSON		5688 CHILLY ROAD	MACKAY	ID	83251
MR OR MRS	NIELSON		RR1 BOX 1075	LESLIE	ID	83255
ROBERT	NIELSON		PO BOX 591	MACKAY	ID	83251
JUDITH	OPITZ		RT 1 BOX 122A	MOORE	ID	83255
MR OR MRS	PARK		PO BOX 578	MACKAY	ID	83251
MR OR MRS	PAYLOR		3264 N 3350 W	MOORE	ID	83255
MR OR MRS	PEARSON		RT 1 BOX 47	MOORE	ID	83255
JOSH	PEHRSON		RT 1 BOX 32	DARLINGTON	ID	83255
MR OR MRS	PEHRSON		RT 1 BOX 48	DARLINGTON	ID	83255
MR OR MRS	PEHRSON		PO BOX 239	MACKAY	ID	83251
RANDY & PEGGY	PEHRSON		ROUTE 1 BOX 32	DARLINGTON	ID	83255
TERRI	PEHRSON		RT 1 BOX 16A	DARLINGTON	ID	83231
MARSHAL TODD	PERKES		RT 1 BOX 69	MOORE	ID	83255
THOMAS J	PERKES		RT 1 BOX 50A	MOORE	ID	83255
JAY	PERSON		2830 NORTH 3375 WEST	MOORE	ID	83255
MR OR MRS	PITTMAN	SIX X RANCH	PO BOX 595	MACKAY	ID	83251
ROBERT E	PITTMAN		3600 S HARBOR BLVD STE 165	OXNARD	CA	83035-4136
MR OR MRS	POPE		RT 1 BOX 191	ARCO	ID	83213
MR OR MRS	PRITCHETT		5395 OLD CHILLY RD	MACKAY	ID	83251
MR OR MRS	PURSER		RT 1 BOX 121B	MOORE	ID	83255
MR OR MRS	PURSER		315 N 4150 E	RIGBY	ID	83442
LARRY A	QUIST		RT 1 BOX 203	ARCO	ID	83213
MR OR MRS	RASMUSSEN		PO BOX 603	ARCO	ID	83213-0603
MR OR MRS	RATHBUN		3871 COYAN RD	CONNELL	WA	99326
LYNN D	RENO		9417 EUCALYPTUS DR	BAKERSFIELD	CA	93306
RICHARD	REYNOLDS		3253 W 2800 N	ARCO	ID	83213
RON	RISH		RR #1 BOX 415-A	ARCO	ID	83213-9745
MR OR MRS	ROBERTSON		4 VALLEY RD	ELLIS	ID	83235
MR OR MRS	ROESSNER		RT 1 BOX 247	ARCO	ID	83213
MR OR MRS	ROGERS		PO BOX 476	ARCO	ID	83213
LANCE	ROSENKRANCE		4303 W Houston Rd	MACKAY	ID	83251

FirstName	LastName	OrganizationName	StreetAddress	City	StateCode	PostalCode
MR OR MRS	ROSENKRANCE		3926 N 4300 W HOUSTON RD	MACKAY	ID	83251
MR OR MRS	ROSENKRANCE		5532 BARTON FLAT RD	MACKAY	ID	83251
MR OR MRS	ROSENKRANCE		PO BOX 374	MACKAY	ID	83251
MR OR MRS	ROSENKRANCE		PO BOX 7	MACKAY	ID	83251-0007
MR OR MRS	ROTHWELL		RT 1 BOX 45	DARLINGTON	ID	83231
MR OR MRS	ROWE		4500 ANTELOPE RD	MOORE	ID	83255
MR OR MRS	RUMMELE		PO BOX 29	ARCO	ID	83213
EVAN KENT	SAYER		4221 N US HWY 93	MACKAY	ID	83251
MR OR MRS	SAYER		RT 1 BOX 1025	LESLIE	ID	83249
MR OR MRS	SAYER		PO BOX 213	MACKAY	ID	83251
MR OR MRS	SAYER		3526 W ANTELOPE RD	MOORE	ID	83255
MR OR MRS	SAYER		4644 S LOCUST LN	SALT LAKE CITY	UT	84117
MR OR MRS	SAYER		3127 E 3100 N	TWIN FALLS	ID	83301
TIM	SAYER		2122 RENDEZVOUS RD	IDAHO FALLS	ID	83402-3882
MARK	SCHEU	NO TELLUM CREEK RANCH LLC	4550 E THOUSAND OAKS BLVD #202	VILLAGE	CA	91362
MARK	SCHLUTER		250 WOODLAND HILLS RD	HELENA	MT	59602
INGRID K	SCHOLZ-ALVAREZ		PO BOX 151	MACKAY	ID	83251
MR OR MRS	SCHUREMAN		3059 W 2230 N	ARCO	ID	83213
PHILLIP D	SCOTT		3493 ANTELOPE ROAD	MOORE	ID	83255
MR OR MRS	SCOUTEN		PO BOX 623	MOORE	ID	83255
M JANICE	SEAL		PO BOX 162	ARCO	ID	83213
MR OR MRS	SEEFRIED		4399 HOUSTON ROAD	MACKAY	ID	83251
THOMAS A	SHELTON		109 W 210 N	BLACKFOOT	ID	83221
MR OR MRS	SIDDOWAY		3312 W 3400 N	MOORE	ID	83255-8730
ROBERT	SILACCI		854 RIKER ST	SALINAS	CA	93901
MIKE	SMITH		1918 N 725 W	WEST BOUNTIFU	UT	84087
MR OR MRS	SMITH		RT 1 BOX 19	MACKAY	ID	83251
MR OR MRS	SMITH		3897 W 3700 N	MOORE	ID	83255
MR OR MRS	SMITH		PO BOX 668	MOORE	ID	83255
MR OR MRS	SMITH		RT 1 BOX 22	MOORE	ID	83255-9794
ORVILLE E	SMITH		RT 1 BOX 52	DARLINGTON	ID	83231
MR OR MRS	SNYDER		3984 W 4100 N	LESLIE	ID	83255
BRUCE E	SOELBERG	SOELBERG FARMS	1482 THREE FOUNTAINS DR	IDAHO FALLS	ID	83404
RONALD W	SORENSEN		PO BOX 622	ARCO	ID	83213
MITCHELL	SORENSON		3871 W 2500 N	MOORE	ID	83255
BETTY ANN	SOWARDS		RT 1 BOX 80	MOORE	ID	83255
JACK & DEIRDRE	SOWARDS		RT 1 BOX 80	MOORE	ID	83255
NORMAN & MARY	SOWARDS		3210 W 3000 N	MOORE	ID	83255
DON & BARBARA	SPENGLER		4412 FRANKLIN CANYON ROAD	MACKAY	ID	83251
MR OR MRS	SPRAKER		RT 1 BOX 438	ARCO	ID	83213
MR OR MRS	STAV		3306 W 3400 N	MOORE	ID	83255
CLINT	STENNETT		PO BOX 475	KETCHUM	ID	83340
CRAIG	STEWART		RT 1 BOX 58B	MOORE	ID	83255
MR OR MRS	STEWART		2700 N 3405 W	MOORE	ID	83255
MR OR MRS	STEWART		RT 1 BOX 59	MOORE	ID	83255
MR OR MRS	STEWART		RT 1 BOX 65	MOORE	ID	83255
DAVID	STOECKLEIN		PO BOX 856	KETCHUM	ID	83340
MR OR MRS	STOKES		PO BOX 613	ARCO	ID	83213
MR OR MRS	TAGGART		PO BOX 368	MACKAY	ID	83251

FirstName	LastName	OrganizationName	StreetAddress	City	StateCode	PostalCode
VIVA	TAYLOR		PO BOX 291	MACKAY	ID	83251
RAYMOND J	TEA		PO BOX 212	MENAN	ID	83434
NORA M	TECHICK		RT 1 BOX 30	MOORE	ID	83255
LYDIA	THORNGREN		3387 W 3150 N	MOORE	ID	83255
MR OR MRS	TOONE		585 LILAC ST	BLACKFOOT	ID	83221
ROBERT	UNGER		24121 S W NEWLAND ROAD	WILSONVILLE	OR	97070-6705
CHRIS W	VAN ETTEN		3600 N 3702 WEST	MOORE	ID	83255
DEE J	VAN ETTEN		RT 1 BOX 57	DARLINGTON	ID	83231
SANDRA	VAN ETTEN		RT 1 BOX 57	DARLINGTON	ID	83231
LINDA	VINING		3127 E 3100 N	TWIN FALLS	ID	83301
MR OR MRS	WADDOUPS		RT 1 BOX 20	MOORE	ID	83255
ROBERT	WADDOUPS		3474 W 2850 N	MOORE	ID	83255
ROBERT D	WADDOUPS		PO BOX 42	MOORE	ID	83255
SHIRLEY	WAINRIGHT		11271 WESTSIDE RD	CLE ELUM	WA	98922
MR OR MRS	WALKER		RT 1 BOX 119	MOORE	ID	83255
REVA	WALKER		PO BOX 32	ARCO	ID	83213
YOUNG HARVEY	WALKER		RT 1 BOX 200	ARCO	ID	83213
MR OR MRS	WANSTROM		RT 1 BOX 1A	MOORE	ID	83255
MR OR MRS	WATSON		4177 RD L	ORLAND	CA	95963
WESLEY F	WATSON		PO BOX 546	ARCO	ID	83213
MR OR MRS	WHARTON		PO BOX 324	MACKAY	ID	83251
ALVIN	WHEELER		PO BOX 915	MOORE	ID	83255
DIXIE L	WHITWORTH		PO BOX 134	MAY	ID	83253
SCOTT L	WHITWORTH		WHITWORTH & HIRSCHY	MAY	ID	83253
DARRELL	WILBURN		RT 1 BOX 46	DARLINGTON	ID	83255-9700
MR OR MRS	WILBURN		PO BOX 3284	RAMONA	CA	92065
LOGAN	WILLIAMS		6558 BARTLETT POINT ROAD	MACKAY	ID	83251
MR OR MRS	WILLIAMS		RT 1 BOX 20	DARLINGTON	ID	83231
MR OR MRS	WILLIAMS		RT 1 BOX 21	DARLINGTON	ID	83213
MR OR MRS	WILLIAMS		HC 86 BOX 4160	MACKAY	ID	83251
MR OR MRS	WILLIAMS		PO BOX 33	MACKAY	ID	83251
MR OR MRS	WOOD		PO BOX 567	ARCO	ID	83213
MR OR MRS	WOODBURY		RT 1 BOX 30-A	MACKAY	ID	83251
VERNON ROBERT	WOODBURY		4281 N 4100 W	MACKAY	ID	83251
MR OR MRS	YORK		2389 CANNON RD	ARCO	ID	83213
JACK	YOUNGSTROM		659 W GRAND AVE	ARCO	ID	83213
MR OR MRS	ZOLLINGER		5332 FISH HATCHERY ROAD	MACKAY	ID	83251
		PARKINSON FARMS	2195 N 3000 W	ARCO	ID	83213
		SIMMONS TRUST PARTNERSHIP	HC 63 BOX 1552	CHALLIS	ID	83226
		PEHRSON BYRON & LOY	RT 1 BOX 16 A	DARLINGTON	ID	83255
		MOUNTAIN SPRINGS RANCH	5550 BARTON FLAT ROAD	MACKAY	ID	83251
		MACKAY SCHOOL DISTRICT #182	PO BOX 390	MACKAY	ID	83251
		BIG LOST RIVER CEMETERY DIST	PO BOX 4	MACKAY	ID	83251
		MICKELSON PROPERTIES LLC	PO BOX 438	RIGBY	ID	83442-0438