

5. Historically, Water District 72-B has operated as an independent water district with its own watermaster.

6. The boundaries of Water District 72-C (Challis Creek) include Challis Creek and its tributaries.

7. Historically, Water District No. 72-C has operated as an independent water district with its own watermaster.

8. On April 6, 2006, IDWR created water district no. 170 for the upper Salmon River Basin. Water District 170 includes administrative basins 71 and 72. Water District 72-B and Water District 72-C are within administrative basin no. 72. The April 6, 2006 order creating Water District 170 stated that existing water districts within water district 170 would become sub-districts of the larger upper Salmon River Water District. Water Districts 72-B and 72-C are sub-districts of Water District 170. Sub-districts within Water District 170 will continue to operate as independent districts for the distribution of surface water rights and their respective areas. Combining Water District 72-B and 72-C will result in one sub-district to administer surface water rights in the Garden and Challis Creek drainages within Water District no 170.

9. In 2006, the water users of Water District 72-B (Garden Creek) elected the watermaster who had served as the watermaster for Challis Creek since 1997. As a result, the watermaster for both districts was the same person in 2006.

10. Projected costs per cfs for each district for 2006 were estimated by dividing estimated 2006 individual budgets for each district by their respective 2005 water deliveries. The projected costs were as followed:

Challis Creek - \$0.76 per cfs
Garden Creek - \$1.99 per cfs

11. The Department also calculated the cost for 2006 for each of the districts operating independently by dividing estimated individual budgets for each district by the actual water delivered in 2006. The costs would have been as follows:

Challis Creek - \$0.60 per cfs
Garden Creek - \$2.01 per cfs

12. A projection of the cost of operating the two districts jointly was computed by estimating the total cost for both districts and dividing by the 2005 water deliveries in both districts. The projected cost was \$0.65 per cfs.

13. Although the Districts were not combined in 2006, the two water districts adopted a joint budget and assessed their respective members at a common or identical rate of assessment per cfs. The actual combined cost in 2006 for delivery of water in Garden Creek and Challis Creek was \$0.58 cents per cfs.

14. As a result of the cost analysis above, the costs of operating the two districts as a single district results in a reduced cost of water delivery to the water users. Sharing of equipment, including computers, and employment of a single watermaster are large contributors to the reduction in costs.

15. The three people who testified at the hearing expressed support for consolidation of Water Districts 72-B and 72-C.

16. IDWR received one letter opposing consolidation. The letter asserted that consolidation would increase the cost of administration to water users. The assertion of increased cost was not supported by any evidence or data.

17. Water users diverting water from Challis Creek divert significantly more water than water users diverting from Garden Creek. As a result, the holders of water rights in the Challis Creek drainage will control the voting within a combined water district. In addition, it is possible that members of an advisory committee for a new water district will be weighted in favor of Challis Creek.

18. No controversies between holders of water rights for Garden Creek and holders of water rights for Challis Creek were identified that would cause strife as a result of voting control by the Challis Creek water users.

CONCLUSIONS OF LAW

1. Idaho Code Section 42-604 states, in pertinent part:

The director may create, revise the boundaries of, or abolish a water district or combine two (2) or more water districts by entry of an order if such action is required in order to properly administer uses of the water resource. Copies of the order shall be sent by regular mail to all holders of rights in the waters affect by the order. The director's order is subject to judicial review as provided in section 42-1701A, Idaho Code.

Before entering an order creating, modifying, or abolishing a district, the director shall, by regular mail, send notice of the proposed action to each water user in the district or proposed district. The notice shall describe the proposed action to be taken, the reasons therefore, the time and place of a hearing to be held concerning the proposed action, and provide a time period within which written comment on the action will be accepted.

2. Because of the reduced cost to water users and the general support of the water users for consolidation, consolidation is in the best interest of the water right holders from Garden Creek and Challis Creek.

3. The members of the water district must be cognizant of possible inequities that could be caused by the consolidation and the possibility that the interests of water users in Garden Creek may be preempted by the interest of those in Challis Creek.

4. The hearing officer recommends that, in the formation of an advisory committee, that the users in both creeks be approximately equally represented.

ORDER

IT IS HEREBY ORDERED that Water District no. 72-B (Garden Creek) and Water District no. 72-C (Challis Creek) are consolidated into a single water district, referred to hereafter as Water District no. 72-A. The water district shall encompass the surface water flowing in Challis Creek and its tributaries and in Garden Creek and its tributaries. The combined water district shall be referred to as the "Garden and Challis Creeks Water District."

IT IS FURTHER ORDERED that Water District no. 72-A shall be a sub-district of the larger Water District no. 170 (Upper Salmon River Water District).

Dated this 16th day of February, 2007.

A handwritten signature in cursive script, reading "Gary Spackman", written over a horizontal line.

Gary Spackman
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of February, 2007, the above and foregoing document was served on each individual or entity on the service list for this matter on file at the Idaho Department of Water Resources, 322 East Front Street, Boise, Idaho. Each individual or entity on the service list was served by placing a copy of the above and foregoing document in the United States mail, postage prepaid and properly addressed.

Documents served: Preliminary Order in the Matter of Consolidation of Water District 72B (Garden Creek) and 72C (Challis Creek)



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