BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE PROPOSED )
MODIFICATION OF WATER DISTRICT )
NO. 140, OAKLEY VALLEY AREA, TO )
EXCLUDE ALL EXISTING )
SUB-DISTRICTS. )
PRELIMINARY ORDER
MODIFYING WATER DISTRICT
NO. 140 TO EXCLUDE
NO. 140 TO EXCLUDE
SUB-DISTRICTS AS INDEPENDENT
WATER DISTRICTS

COURSE OF PROCEEDINGS

The Director ("Director") of the Idaho Department of Water Resources ("IDWR" or "Department") is authorized to divide the state into water districts for the purpose of distributing water among appropriators under the laws of the State of Idaho. Idaho Code § 42-604 authorizes the Director to create, revise the boundaries of, or abolish a water district or combine two (2) or more water districts as required to properly administer the users of water resources. The authority to revise or expand the boundaries of water districts applies to those streams, or other water sources including ground water, for which the priorities of appropriation have been adjudicated by court decree. Idaho Code § 42-604 directs that before entering such an order the Department provide notice to each water user in the district describing the proposed action, providing the time and place of a hearing on the proposed action, and establishing a time period for submission of written comments.

On September 22, 2021, the Department provided Notice of Proposed Action, Public Hearing, and Written Comment Period ("Notice") to the water users in Water District No. 140 ("WD 140") in which it proposed to modify WD 140 to exclude the seven existing sub-districts from oversight by WD 140 and designate them as independent water districts within the boundaries of WD 140 (the "Proposed Action"). The Proposed Action would designate the existing sub-districts of WD 140 as independent water districts as follows:

- 45A, Basin Creek and tributaries;
- 45B, Birch Creek and tributaries;
- 45C, Goose Creek and tributaries;
- 45F, Marsh Creek and tributaries;
- 45K, Cottonwood Creek and tributaries;
- 45N, Dry Creek and tributaries; and
- 45O, Golden Valley (ground water in the Cottonwood Critical Ground Water Area).

As established in the Notice, the Department conducted a public hearing regarding the proposed modification of WD 140 on Wednesday, October 13, 2021, and accepted written comments until October 25, 2021. Peter Anderson was the presiding officer.

The following individuals provided testimony at the October 13 hearing:

- Nathan Erickson, IDWR, Technical Hydrologist
- Mike Cranney, WD 140 chairman
- Brett Gorringe, sub-district water user
The following documents were submitted at the hearing:

- Nathan Erickson PowerPoint presentation, with notes
- Written testimony of Michael Cranney dated October 13, 2012

The Department received the following written comment by the October 25, 2021, deadline:

- Letter from Don F. Pickett, dated October 8, 2021

The Department also takes official notice of the Amended Final Order Creating Water District No. 140, dated September 4, 2008, and the Errata to Amended Final Order Creating Water District No. 140, dated September 10, 2008.

Based upon the record in this matter, the Department finds, concludes, and orders as follows:

**FINDINGS OF FACT**

1. On September 4, 2008, the Director created Water District No. 140. Amended Final Order Creating Water District No. 140 (the “Amended Final Order”).

2. In the Amended Final Order the Director considered whether the existing surface water districts in IDWR Administrative Basin 45 (“Basin 45”) should be converted to sub-districts within WD 140. At that time there were seven water districts located within the proposed Water District No 140 including: Water District No. 45A, Basin Creek and tributaries; Water District No. 45B, Birch Creek and tributaries; Water District No. 45C, Goose Creek and tributaries; Water District No. 45F, Marsh Creek and tributaries; Water District No. 45K, Cottonwood Creek and tributaries; Water District No. 45N, Dry Creek and tributaries; and Water District No. 45O, Golden Valley (ground water in the Cottonwood Critical Ground Water Area). All of these water districts were active except Water District No. 45N, which was inactive. The Director concluded in the Amended Final Order that:

   “8. In response to the hearing testimony and written comments, the Director concludes that during the irrigation season for the water rights in some of the existing water districts in Basin 45, the statutory requirements of Chapter 6, Title 42, Idaho Code, are mostly being met; while in other water districts in Basin 45, some or many of the statutory requirements are not being satisfied. For example, surface water diversions in some of the existing districts lack adequate measuring devices and controlling head gates, are not measured or recorded on a regular basis, or are not monitored or regulated during portions of the irrigation season. Additionally, some of the existing water districts do not maintain adequate measurement records, annual watermaster reports are not always complete or timely submitted, and some existing water districts have been periodically inactive or inactive for many years. None of the existing water districts enforce limitations of surface water rights outside of the irrigation season for the rights, and only one (1) of the existing water districts regulates water rights diverting from ground water.

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1 At the time of issuance of the Final Amended Order, IDWR’s numbering convention for water districts was to hyphenate between the numeric and alpha characters. IDWR no longer hyphenates water district numbering and that convention will be followed in this Order, unless a direct quote used the former convention.
9. Given that: (1) water districts do not exist in large areas of Basin 45; (2) the administration of surface water rights in the existing water districts in Basin 45 is often inconsistent; (3) none of the existing water districts in Basin 45 administer surface water rights outside of the irrigation season for those rights or during the irrigation season when the surface water sources are not in regulation; and (4) only one of the existing water districts in Basin 45 regulates diversions from ground water; the Director concludes that there should be one water district created that encompasses all of the water rights within Basin 45, and that the existing surface water districts in Basin 45 should be designated as sub-districts, in order to provide consistent and effective administration of water rights from both surface water sources and ground water sources year-round throughout Basin 45.

10. Existing water districts in Basin 45, which now will be sub-districts within Water District No. 140, will each continue to elect their own watermasters, and adopt their own budgets for purposes of water distribution within their districts, including measurement reporting and regulation of water diversions. A sub-district that provides for the adequate distribution of water in accordance with Idaho law and guidance from the Director should not be subject to future assessments from Water District No. 140 for purposes of water distribution within that sub-district. However, each existing water district designated as a sub-district may be subject to future assessments for costs associated with oversight of that sub-district if the sub-district is not satisfactorily distributing water to the water rights for which it has immediate responsibility. Oversight costs relative to existing water districts that are designated as sub-districts of Water District No. 140 may include, but may not be limited to, regulation and enforcement of water rights, measurement and reporting of diversions, and monitoring and implementation of mitigation plans as may be necessary for junior ground water rights that are determined to be causing injury to senior water rights.”

Id., at 9 - 10

3. Based on these conclusions, the Director ordered that:

“2. Water District No. 45-A, Basin Creek and tributaries; Water District No. 45-B, Birch Creek and tributaries; Water District No. 45-C, Goose Creek and tributaries; Water District No. 45-F, Marsh Creek and tributaries; Water District No. 45-K, Cottonwood Creek and tributaries; Water District No. 45-N, Dry Creek and tributaries; and Water District No. 45-O, Golden Valley (ground water in the Cottonwood Critical Ground Water Area), are designated as sub-districts within Water District No. 140. These sub-districts shall continue to meet annually to elect a sub-district watermaster, adopt a budget, and select an advisory committee. These sub-districts, except for Water District No. 45-O, shall be responsible for distribution of surface water rights that have been reported or partially decreed in the SRBA and located within the respective sub-districts.
Water District No. 45-O shall be responsible for distribution and administration of ground water rights within the district that have been reported or partially decreed in the SRBA. For 2008, water right holders within the sub-districts shall meet at a time and place as normally determined by the district. Water rights in any existing water district designated herein as a sub-district that is or becomes inactive shall be administered directly by the watermaster of Water District No. 140. Water rights in an existing active water district designated herein as a sub-district shall not be subject to assessments from Water District No. 140 unless the Director determines that the sub-district is not providing for adequate distribution of water and the watermaster of Water District No. 140 is required to directly expend time or resources to deliver and/or regulate water in that sub-district.”

Id. at 13

4. At the time of issuance of the Amended Final Order in 2008 the appointed watermaster of WD 140 was an employee of the Department and was expected to oversee and support the sub-districts. Starting in 2010, however, WD 140 has not elected a watermaster who is a full-time employee of the Department. WD 140 has not been expected to provide each sub-district the support and oversight specified in the Amended Final Order and has not assessed the water right holders either in or outside of the sub-districts to provide sub-district support and oversight.

5. Instead, since 2010 the sub-districts acted in all ways as independent water districts, despite their formal designation as sub-districts. During this time the Department has been supporting and overseeing the sub-districts and their watermasters. During the irrigation season the statutory requirements of Chapter 6, Title 42, Idaho Code, are being independently met for water right administration in the sub-districts without WD 140 watermaster oversight or support. Diversions in the sub-districts have adequate measuring devices and controlling head gates, are measured or recorded on a regular basis, and are monitored or regulated during the irrigation season. Additionally, all sub-districts are active, the sub-districts maintain adequate measurement records, annual watermaster reports are complete and timely submitted, and annual meetings are conducted. The sub-districts enforce applicable limitations on surface water rights outside of the irrigation season.

6. WD 140 currently regulates all water rights diverting from ground water in Basin 45, except ground water rights in Sub-District No. 45O, Golden Valley (ground water in the Cottonwood Critical Ground Water Area). WD 140 currently administers surface water rights in Basin 45 outside the sub-districts. Assistance from and oversight by the WD 140 watermaster is not needed for the administration of water rights in the sub-districts.

7. The Department will continue to support Basin 45 sub-districts if they are re-designated as independent water districts.

8. The Department consulted with all affected Basin 45 water district watermasters and advisory committees to ensure the proposed modification will not negatively affect existing administration within their respective jurisdictions. The proposed modification will allow water districts within Basin 45 to continue to operate independently.

9. Michael Cranney, WD 140 chairman, testified and submitted a written version of his testimony to the Department at the hearing on October 13, 2021. He expressed the following concerns:
a. Removing the sub-districts from WD 140 would deny the sub-districts access to the political process of working together within WD 140 to resolve issues pertinent to the general area.

b. There are ground and surface water rights in most WD 140 sub-districts, and the WD 140 advisory committee provided representation to all ground and surface water users.

c. Separating ground and surface water districts could bring the Department back into administering some of the water rights in the sub-districts with duplication of authority and potential over-reach by the Department.

d. Separating ground and surface water districts will add cost for all water users.

e. WD 140 hired a watermaster not employed by the Department to save costs and work out violations on a local level. The Department watermaster was adversarial and did not represent the water users.

f. The sub-districts should be required to report to the WD 140 watermaster, and WD 140 would then be responsible to submit the reports to the Department. This would allow WD 140 to ensure that it receives mitigation credit for all of its water purchases.

g. WD 140 in its current form has spent its own money to resolve water issues in the district by construction of pipelines, recharge sites, water right purchases, and rentals.

h. Do not try to fix something that does not need fixed.

10. Bret Gorringe testified that his water rights fall in a sub-district.

a. The proposed change would remove the sub-districts from the dispute between WD 140 and the Department employee watermaster. The proposed boundary change would return the sub-districts back to what they were doing before creation of WD 140.

b. Sub-districts have always taken care of their own expenses and still do. Being separated from WD 140 since 2007 saved the sub-districts money.

c. He supports the proposed change. Creation of the sub-districts should never have been done to begin with.

11. Don Pickett wrote that he did not expressly object to the proposed action. However, Mr. Pickett expressed two concerns:

a. Based upon past experience with the Department Mr. Pickett stated that the electors of WD 140 did not want to revert back to what he described as an overbearing personality as watermaster, nor should water users be restricted from conducting routine maintenance by Department employees who exceed their legal authority.
b. The Notice of Proposed Action was deficient in that it: 1) failed to fully state the standard for changing the boundary of a water district under Idaho Code § 42-604; 2) it did not expect the WD 140 watermaster to fulfill the duties specified in the Amended Final Order nor explain how the Department’s continuing support and oversight makes the proposed change necessary or required; and 3) fails to identify that WD 140 has failed in the performance in its duties or has been unwilling or unable to correct any failure upon notification from the Department.

CONCLUSIONS OF LAW

Statutory Authorities

1. Idaho law declares all surface water, when in natural channels or springs or lakes, and all ground water within the State of Idaho to be the property of the state, whose duty it is to supervise the appropriation and allotment of the water to those diverting the same for beneficial use. See Idaho Code §§ 42-101, 42-103, and 42-226.

2. The Director, acting on behalf of the State of Idaho, has the statutory authority to control the appropriation and use of all surface and ground waters within the state in accordance with, but not limited to, Idaho Code §§ 42-101, 42-103, 42-202(1), 42-220, 42-226, 42-237, 42-351, and 42-602 et seq.

3. Idaho Code §§ 42-226 and 42-237 assign the authority and responsibility to the Director for the administration of ground water rights in the state in accordance with the prior appropriation doctrine as established by Idaho law so as to protect prior surface and ground water rights.

4. The Director has responsibility for direction and control over the distribution of water in accordance with the prior appropriation doctrine as established by Idaho law within water districts to be accomplished through watermasters supervised by the Director, and subject to removal by the Director, as provided in Chapter 6, Title 42, Idaho Code.

5. Idaho Code § 42-604 authorizes the Director to form water districts as necessary to properly administer uses of water from public streams, or other independent sources of water supply, for which a court having jurisdiction thereof has adjudicated the priorities of appropriation. The Director may also revise the boundaries of a water district, 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 the users of the water resource. A corollary to this authorization is that the Director may also revise boundaries when experience shows that previously established water district boundaries were not required in order to properly administer the users of the water resource.

Response to Testimony and Written Comments

6. The Department understands Mr. Cranney’s testimony. He describes WD 140 operating as it was originally envisioned when the Department issued the Amended Final Order. The reality is, however, that WD 140 and the sub-districts have operated as if the sub-districts were separate water districts since the Department employee was removed as WD 140 watermaster. As originally structured the Department employee provided the sub-districts Departmental oversight and assistance as the WD 140 watermaster. Since the change in watermaster the Department has provided general oversight and assistance separately to WD 140 and the sub-districts. Separate management of WD 140 and the sub-
district has not prevented the Basin 45 water users from resolving the water issues confronting them on a local level. Formalizing the separation between WD 140 and the sub-districts will not increase the costs to the water users and will not prevent access to water purchase and delivery records from the Department. The sub-district structure under the oversight umbrella of WD 140 is not required to properly administer the users of the water resource in Basin 45.

7. Mr. Gorringe was correct in his testimony that the Department’s proposed action will formally return the sub-districts back to what they were before the creation of WD 140. The sub-districts will continue to operate as they have for at least the last ten years, and the sub-district structure is not required to properly administer water uses in Basin 45.

8. Although Mr. Picket does not oppose the Proposed Action the Department notes that his stated concerns regarding a reversion back to a Department employee as watermaster are unjustified. The Department will continue only to provide general oversight and assistance to WD 140 and the new water districts, in the same fashion as it has for the last ten years. The proposed action will not increase Departmental involvement. Mr. Picket’s procedural concerns regarding the Notice of Proposed Action suggest that more is required in the Notice than is necessary. The Notice correctly cites the statutory section under which the Department is proceeding—Idaho Code § 42-604. As shown by Mr. Pickett’s comments themselves the standards to be applied under that section are readily obtainable using the code reference. Further, Mr. Pickett seems to expect a full justification for the Proposed Action in the Notice. The Notice simply described the Proposed Action and outlined the basic reasons for taking that Action. This Order describes the Department’s justification for taking this action.

District Revision

9. Based upon the above statutory authorities and the record in this proceeding, the Director should revise WD 140 by removing the sub-districts in Basin 45, and designating those sub-districts as independent water districts, as shown on the map appended hereto as Attachment A. WD 140 should retain its current external boundary and administer all ground water rights in Basin 45 outside the boundary of Water District No. 45O, and surface water rights in Basin 45 outside the boundaries of other water districts in Basin 45. The independent water districts and WD 140 should administer water rights with the assigned water sources within their boundaries to protect senior priority water rights as follows:

<table>
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<tr>
<th>Water District Name</th>
<th>Assigned water source(s)</th>
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<tbody>
<tr>
<td>45A, Basin Creek and tributaries</td>
<td>surface water</td>
</tr>
<tr>
<td>45B, Birch Creek and tributaries</td>
<td>surface water</td>
</tr>
<tr>
<td>45C, Goose Creek and tributaries</td>
<td>surface water</td>
</tr>
<tr>
<td>45F, Marsh Creek and tributaries</td>
<td>surface water</td>
</tr>
<tr>
<td>45K, Cottonwood Creek and tributaries</td>
<td>surface water</td>
</tr>
<tr>
<td>45N, Dry Creek and tributaries</td>
<td>surface water</td>
</tr>
<tr>
<td>45O, Golden Valley</td>
<td>ground water, except ground water rights in Water District No. 45O, Golden Valley (ground water in the Cottonwood Critical Ground Water Area), and surface water outside the other water districts in Basin 45</td>
</tr>
<tr>
<td>140</td>
<td>ground water</td>
</tr>
</tbody>
</table>
Proper and efficient administration of water rights in Basin 45 does not require sub-districts of WD 140, or assistance from and oversight by the WD 140 watermaster.

10. The Director concludes that the water districts should be used to administer the affected water rights in accordance with the prior appropriation doctrine as established by Idaho law.

Administration of Affected Water Rights

11. The Director concludes that the water districts identified in this Order and their watermasters shall perform the duties prescribed by Chapter 6, Title 42, Idaho Code, and in accordance with the guidelines, direction, and supervision of the Director.

ORDER

IT IS HEREBY ORDERED that:

1. Sub-district No. 45A, Basin Creek and tributaries; Sub-district No. 45B, Birch Creek and tributaries; Sub-district No. 45C, Goose Creek and tributaries; Sub-district No. 45F, Marsh Creek and tributaries; Sub-district No. 45K, Cottonwood Creek and tributaries; Sub-district No. 45N, Dry Creek and tributaries; and Water District No. 45O, Golden Valley (ground water in the Cottonwood Critical Ground Water Area), previously under Water District No. 140 are designated as independent Water Districts, within the area depicted on the map appended hereto as Attachment A and incorporated herein by reference. These Water Districts, except for Water District No. 45O, shall be responsible for distribution of surface water rights that have been reported or decreed in the SRBA or licensed by the Department and located within the respective Water Districts. Water District No. 45O shall be responsible for distribution and administration of ground water rights within the district that have been decreed in the SRBA or licensed by the Department, except small domestic and stock water rights as defined under Idaho Code §§ 42-111 and 42-1401A(11). Water rights formally administered by a sub-district which is now designated herein as a water district shall not be subject to assessments from Water District No. 140.

2. Water District No. 140 shall be responsible for distribution and administration of ground water rights within the District, excepting the ground water rights in Water District No. 45O, Golden Valley (ground water in the Cottonwood Critical Ground Water Area) and small domestic and stock water rights as defined under Idaho Code §§ 42-111 and 42-1401A(11), and surface water outside the water districts in Basin 45 established in paragraph 1, as depicted on the map appended hereto as Attachment A and incorporated herein by reference.

3. Water rights diverted from geothermal sources upstream of Oakley Reservoir are included in Water District No. 140 but shall be administered separately from water rights diverted from other ground and surface water sources in Basin 45. The watermaster of Water District No. 140 shall monitor or coordinate monitoring of the geothermal diversions above Oakley Reservoir with the watermaster of Water District No. 45C as necessary to ensure proper delivery of water when geothermal and surface water rights are used in combination for the same use.
4. Ground water districts, irrigation districts, or other water use entities may measure and report on behalf of their members' ground water diversions within their organizational boundaries provided that the district or other water use entity measures and reports diversions in accordance with guidelines and direction provided by the Director.

5. The water districts identified in this Order and their watermasters shall perform the duties prescribed by Chapter 6, Title 42 Idaho Code, and in accordance with the guidelines, direction, and supervision of the Director.

DATED this 15th day of November, 2021.

[Signature]

Peter Anderson
Presiding Officer
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of November, 2021, the above 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, and posted on the Department’s website: www.idwr.idaho.gov. 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.

[Signature]

Denise Maline
Administrative Assistant
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BRET ROBINS FARMS INC
273 W 400 S
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GLORIA BROWN
PO BOX 74
OAKLEY, ID 83346

RONNIE D CAHOOON
1096 E 900 S
ALBION, ID 83311-9703

CARLSON CANYON RANCH
A DIVISION OF ADAMS PETROLEUM
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CEDAR DRAW LLC
PO BOX 123
RUPERT, ID 83350-0123

CHRIS DRAKOS / LAMBERT PRODUCE CO INC
PO BOX 793
BLACKFOOT, ID 83221

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BURLEY, ID 83318

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MISSION VIEJO, CA 92691

BURLEY IRRIGATION DISTRICT
246 E 100 S
BURLEY, ID 83318

JUNE G CAREY
CAREY FAMILY FARMS LLC
2560 BURTON AVE
BURLEY, ID 83318

PHILLIP C CHAMBERLAIN
1833 SIGRID AVE
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JEFFERY J AND TAMERA CHATBURN
PO BOX 26
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CALDWELL, ID 83605

PAUL CHRISTENSEN
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PO BOX 26
ALBION, ID 83311-0026

PERRY G CHRISTENSEN
16692 OASIS RD
CALDWELL, ID 83605

PAUL CHRISTENSEN
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BURLEY, ID 83318
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<td>CLARENCE V EGBERT</td>
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FARMLAND RESERVE INC
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DEANN F AND ROBERT G FEHLMAN
PO BOX 251
OAKLEY, ID 83346

DELMAR FERGUSON
176 INDIAN SPRINGS ST
JACKSON, GA 30233-2124

FIRST PRESBYTERIAN CHURCH
2100 BURTON AVE
BURLEY, ID 83318

EDITH L AND HARRY W FITZGERALD
PO BOX 55
ALBION, ID 83311

FLF SAWTOOTH LLC
119 S B ST
SAN MATEO, CA 94401-3908

CLYDINE FONNESBECK
2441 W 16TH ST
BURLEY, ID 83318

R A FOSS
1157 E 4400 N
BUHL, ID 83316

GARY FOWLER
212 PLEASANT WAY
RUPERT, ID 83350

GARY L FOWLER AND SARA D SOMSEN-FOWLER
47 S 600 E
RUPERT, ID 83350

FRANKLIN DON & ZOE FAR WIXOM,
RAYMOND
1225 EAST 2ND AVE
SALT LAKE CITY, UT 84103-4330

LEROY AND RONDA FUNK
185 E 100 S
BURLEY, ID 83318

DAVID L AND SHIRLENE FUNK
3040 N 3800 E
HANSEN, ID 83334-5246

G DOT FARMS INC
W GARY WHITELEY
PO BOX 211
OAKLEY, ID 83346

JOHN W GARLAND
136 E MARKET ST
ALBION, ID 83311

KATHLEEN AND THOMAS E GARRARD
159 W 700 S
BURLEY, ID 83318

DIXIE NOTHWANG, JACK C SHERRILL
LIVING TRUST & JOAN GAVIN
415 ADDISON AVE STE 3
TWIN FALLS, ID 83301-5179

GCW RANCH LLC
950 E 17TH ST
BURLEY, ID 83318

V THOMAS GEARY
964 S 950 E
ALBION, ID 83311

LAVERDA V GEE
BOX 74
OAKLEY, ID 83346

JEFFERY, KAITLYN AND SUZANNE GERARD
565 W 40 S
BURLEY, ID 83318

LARRY AND REX GERRATT
DBA IDA GOLD FARMS
246 E 300 S
BURLEY, ID 83318

REED GIBBY
872 E PEBBLE DR
BURLEY, ID 83318

JANET M GIEBLER
1172 WOODRIVER DR
TWIN FALLS, ID 83301-8353

GLENN WARD DAIRY LLC
GLENN A WARD
227 E 400 S
BURLEY, ID 83318

JIM W AND MARILYN A GOCHNOUR
326 W 200 S
BURLEY, ID 83318

GOLDEN RAIL MOBILE HOME COURT
PO BOX 221
JEROME, ID 83338

GOOSE CREEK IRRIGATION DISTRICT /
OAKLEY CANAL CO
PO BOX 207
OAKLEY, ID 83346-0207

TOM C GORRINGE
1985 S 100 E
OAKLEY, ID 83346-8712
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BETTY AND JESSIE DEAN PERRY  
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ALBION, ID 83311

MERIEL B PETERSON  
PO BOX 181  
OAKLEY, ID 83346

CHERIE JAN AND HUGH NELS PETERSON  
PO BOX 57  
OAKLEY, ID 83346

BREK AND EMILY PILLING  
280 E HIGHWAY 81  
BURLEY, ID 83318-5428

JASON PINA  
1701 SCHODDE AVE  
BURLEY, ID 83318-2232

POOR FARM INC  
PO BOX 304  
BURLEY, ID 83318

SHOULDER 3 RANCHES INC & TESSA A POULSEN  
709 LAVA POINTE DR  
SAINT GEORGE, UT 84770-5161

GARY R AND KATHERINE POULTON  
605 W 2200 S  
OAKLEY, ID 83346

WILLIAM A AND MARGARET POULTON  
977 S 150 E  
BURLEY, ID 83318

PREFONTAINE GREEN CHOP INC  
110 S 450 E  
BURLEY, ID 83318-5407

BERTHA & EUGENE F PRICE  
C/O BETTY JEAN SEESEE  
410 E 18TH ST  
BURLEY, ID 83318

REBECCA AND SCOTT E PROW  
249 S 400 W  
BURLEY, ID 83318

BRENDA AND DAN R PRUETT  
1031 E 200 N  
DECLO, ID 83323

CINDY QUALLS  
PO BOX 193  
OAKLEY, ID 83346

QUARTER CIRCLE FIVE  
3805 SANDPIPER  
POCATELLO, ID 83201

RABO AGRIFINANCE LLC  
14767 N OUTER 40 RD STE 400  
CHESTERFIELD, MO 63017

RABO AGRIFINANCE LLC  
237 CANYON CREST DR  
TWIN FALLS, ID 83301-5919

RABO AGRIFINANCE LLC  
PO BOX 411995  
SAINT LOUIS, MO 63141-1995

GLEN M REEDER AND K C RAMSEY  
1074 E 900 S  
ALBION, ID 83311

RANCH PROPERTIES LLC  
3663 EAST 3500 NORTH  
KIMBERLY, ID 83341

GRANT D RANDALL  
RT 2 BOX 172  
BURLEY, ID 83318

ILIA C RANDELL  
PO BOX 59  
OAKLEY, ID 83346

GENE M RANSTROM / HOFFBUHR INVESTMENT CO LLC  
205 W HWY 30  
BURLEY, ID 83318

JEFFREY R & SHAWNA L RASMUSSEN  
377 N 916 E  
DECLO, ID 83323-5126

RICH REDMAN  
PO BOX 14  
ALBION, ID 83311

DARLA D AND ODEEN K REDMAN  
PO BOX 22  
ALBION, ID 83311-0022

LORNA B REEDER  
900 E 300 N  
DECLO, ID 83323-5000

RIVERSIDE INVESTMENT FAMILY LP  
PO BOX 1120  
BURLEY, ID 83318

ROBINS FARMS INC  
C/O GARY ROBINS  
122 W 600 S  
BURLEY, ID 83318

KARLA L ROBINSON  
1170 E 810 S  
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SIX S RANCH LLC  
1354 E SIX S RANCH RD  
DECLO, ID 83323

CHARLES ELVIS AND DELTA LOU SKAGGS  
934 E 18TH ST  
BURLEY, ID 83318-2620

GEORGE E AND NANCY L SMITH  
105 E 400 S  
BURLEY, ID 83318

GLEN CRAIG AND VICKIE SMITH  
155 E 2070 S  
OAKLEY, ID 83346

MIRIAM ALLRED SMITH  
500 RIVERSIDE DR  
BURLEY, ID 83318

BRUCE M SMITH  
MSBT LAW CHTD  
950 W BANNOCK ST STE 520  
BOISE, ID 83702

JAMES M AND SHERRI SMITH  
PO BOX 445  
BURLEY, ID 83318

KENNETH E AND MARY L SMITH  
PO BOX 457  
ALBION, ID 83311

DELORES J AND NORMAN L SMYER  
76 S HWY 77  
DECLO, ID 83323

KEVIN SMYER  
PO BOX 482  
ALBION, ID 83311

SOLAR FARMS  
185 S 600 E  
RUPERT, ID 83350

DIANNE L, KRISTINE AND G FRANK SOMSEN  
641 N 1250 E  
JACKSON, ID 83350

RONALD S SORENSEN  
988 E 1000 S  
ALBION, ID 83311

SERN C SORENSEN  
PO BOX 171  
ALBION, ID 83311

SERN C SORENSEN  
PO BOX 53  
ALBION, ID 83311

SOUTH RIDGE LAND LLC  
726 E 500 S  
BURLEY, ID 83318-5632

SOUTHERN IDAHO REGIONAL SOLID WASTE DIST  
PO BOX 159  
BURLEY, ID 83318

SOUTHWEST IRRIGATION DISTRICT  
PO BOX 668  
BURLEY, ID 83318

RICKIE AND SCOTT SPEARIN  
2066 POLELINE RD  
OAKLEY, ID 83346

SPRING CREEK TERRACES INC  
C/O CURTIS POPE  
536 TERRACE DR  
BURLEY, ID 83318

SPRING CREEK TERRACES INC  
C/O GARALD E PRICE  
568 TERRACE DR  
BURLEY, ID 83318

SPRINGDALE ACRES HOMEOWNERS ASSN INC  
PO BOX 910  
BURLEY, ID 83318

STATE OF IDAHO  
DEPT OF FISH & GAME  
PO BOX 25  
BOISE, ID 83707-0025

STEPHAN KVANVIG STONE & TRAINOR  
LAIRD B STONE  
PO BOX 83  
TWIN FALLS, ID 83303-0083

BRENT J, LAVEL D, MARLA S, WENDY STOKER  
707 E 500 S  
BURLEY, ID 83318-5605

ALETA AND LONNIE STRINGHAM  
130 S CHURCH ST  
OAKLEY, ID 83346

JERRY S SWISHER  
3100 HILAND AVE  
BURLEY, ID 83318

CARLA AND CHARLES SYDNOR  
RT 1 BOX 398A  
RUPERT, ID 83350

LYNN, LISA TAYLOR AND TAJO LLC  
1250 E 11 N  
DECLO, ID 83323

TAT FARMS LLC  
105 W 800 S  
BURLEY, ID 83318
CONNIE AND LARRY WATTERSON
597 S 50 E
BURLEY, ID 83318

GARR G WAYMENT & WAYMENT
FARMS INC
781 S 250 E
BURLEY, ID 83318

WAYNE C ANDERSEN LLC
911 S 700 W
BURLEY, ID 83318

CAROL B AND GEORGE K WELLS
2073 S POLELINE RD
OAKLEY, ID 83346

WELLS FARGO BANK NA
BOISE BBG LOAN OPERATIONS
PO BOX 8203
BOISE, ID 83707-2203

WESTERN AG PRODUCTS LLC
PO BOX 5178
TWIN FALLS, ID 83303

JOSEPH R AND MARY J WHITELEY
1165 N 1400 W
PROVO, UT 84604-6012

WINSLOW B WHITELEY
PO BOX 218
OAKLEY, ID 83346

WHITELEY BROTHERS LLC
700 W 2000 S
OAKLEY, ID 83346-8761

JAMES D WHITTLE
2116 S 500 W
OAKLEY, ID 83346

BOYD WHITWORTH
901 E 18TH ST
BURLEY, ID 83318

WICKEL LAND COMPANY, LLP
PO BOX 219
DECLO, ID 83323

JUSTIN LEE AND NEELEI BERLIN WILLIS
2530 E 3707 N
TWIN FALLS, ID 83301

WILLOW CREEK ENTERPRISES LLC
REED GIBBY
134 E HIGHWAY 81
BURLEY, ID 83318-5427

WINECUP INC
PO BOX 234
OAKLEY, ID 83346-0234

BRITTANY AND WILLIAM JEREMY WOOD
478 E HWY 81
BURLEY, ID 83318

JILL M AND PAUL P WORNELL
150 E 487 S
BURLEY, ID 83318

GALE WRIGLEY
419 E 600 S
BURLEY, ID 83318

LARISSA AND TYSON WRIGLEY
458 E 400 S
BURLEY, ID 83318-5625

BETH, EDITH M, RICKY D AND MAVIS WRIGLEY
798 S 450 E
BURLEY, ID 83318

REED WYATT
222 CHURCHILL DR
BURLEY, ID 83318-2702

KAREN AND KELLY WYATT
456 S 150 W
BURLEY, ID 83318

DARLA WYBENGA
460 W 90 N
BURLEY, ID 83318

STEVE C WYBENGA / WYBENGA DAIRY
PO BOX 459
BURLEY, ID 83318

Y DELL BOWL
1331 E MAIN
BURLEY, ID 83318

ZION LUTHERAN CHURCH
24TH & MILLER
BURLEY, ID 83318

ZIONS FIRST NATIONAL BANK
1350 PARKWAY DR STE 1
BLACKFOOT, ID 83221-1657

ZIONS FIRST NATIONAL BANK
2460 S 3270 W
W VALLEY CITY, UT 84119-1116

ZIONS FIRST NATIONAL BANK
COMMERCIAL BANKING CENTER
1235 S UTAH AVE
IDAHO FALLS, ID 83402-3375

LINDA AND WADE ZOLLINGER
1994 S 100 E
OAKLEY, ID 83346
EXPLANATORY INFORMATION TO ACCOMPANY A
PRELIMINARY ORDER

(To be used in connection with actions when a hearing was held)

The accompanying order is a Preliminary Order issued by the Idaho Department of
Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will
become a final order without further action of the Department unless a party petitions for
reconsideration or files an exception and brief as further described below:**

**PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the hearing
officer within fourteen (14) days of the service date of the order as shown on the certificate of
service. **Note: the petition must be received by the Department within this fourteen (14)
day period.** The hearing officer will act on a petition for reconsideration within twenty-one (21)
days of its receipt, or the petition will be considered denied by operation of law. See section 67-
5243(3) Idaho Code.

**EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the
service date of a denial of a petition for reconsideration from this preliminary order, or (c) the
failure within twenty-one (21) days to grant or deny a petition for reconsideration from this
preliminary order, any party may in writing support or take exceptions to any part of a
preliminary order and may file briefs in support of the party’s position on any issue in the
proceeding to the Director. Otherwise, this preliminary order will become a final order of the
agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall
have fourteen (14) days to respond to any party’s appeal. Written briefs in support of or taking
exceptions to the preliminary order shall be filed with the Director. The Director retains the right
to review the preliminary order on his own motion.

**ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow
all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order
and may schedule oral argument in the matter before issuing a final order. If oral arguments are
to be heard, the Director will within a reasonable time period notify each party of the place, date
and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments
will be heard in Boise, Idaho.
CERTIFICATE OF SERVICE

All exceptions, briefs, request for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The Department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) The petition for reconsideration is disposed of; or
(b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.