BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF CREATING THE MUD LAKE AREA WATER DISTRICT (DESIGNATED AS WATER DISTRICT NO. 110) FOR THE ADMINISTRATION OF RIGHTS TO THE USE OF GROUND WATER FROM THE EASTERN SNAKE PLAIN AQUIFER IN ADMINISTRATIVE BASINS 31 AND 32	**FINAL ORDER CREATING WATER DISTRICT NO. 110**

The Director of the Idaho Department of Water Resources ("Director" or "Department") is required by Idaho statutes to divide the state into water districts for the purpose of performing the essential governmental function of distributing water among appropriators under the laws of the State of Idaho. The requirement to create or establish water districts applies to those streams, or other water sources, for which the priorities of appropriation have been adjudicated by court decree. By statute, during the pendency of a water rights adjudication, the district court having jurisdiction for the adjudication can authorize interim administration of the water rights by the Director if reasonably necessary to protect senior water rights. The district court may authorize the distribution of water pursuant to chapter 6, title 42, Idaho Code, in accordance with partial decrees entered by the court or in accordance with one or more Director's Reports as may be modified by the court's order.

FINDINGS OF FACT

1. On April 18, 2005, the State of Idaho ("State") filed a motion requesting an order authorizing the interim administration of water rights by the Director in the Department's Administrative Basins ("Basins") 31 and 32 with the Snake River Adjudication ("SRBA") District Court. The State's motion included a Notice of Hearing setting the matter for hearing by the SRBA District Court on July 21, 2005. The SRBA District Court designated the matter as SRBA Subcase 92-00021 (Interim Administration). The State's motion and supporting briefing and affidavits are a part of the public record in the matter of creating Water District No. 110 within Basins 31 and 32.

2. All of the water rights claimed in Basins 31 and 32 have been reported in Director's Reports to the SRBA District Court or have been partially decreed, superceding the Director's Reports, as required under Idaho Code § 42-1417.

3. The State's motion for interim administration described in Finding 1 above states that: "Interim administration of water rights in [these] [b]asins . . . is reasonably necessary because an efficient means of administering water rights from ground water sources and some surface water sources in these basins does not exist. The establishment of water districts for

these basins will provide the watermasters with the ability to administer water rights in accordance with the prior appropriation doctrine as established by Idaho law."

4. On April 19, 2005, the State served copies of its motion and supporting briefing and affidavits on all affected parties by regular U. S. Mail.

5. On July 21, 2005, the SRBA District Court held a hearing on the State's motion. No objections were filed in opposition to the motion, and no party appeared in opposition to the State's motion.

6. On July 21, 2005, the SRBA District Court issued an order authorizing the interim administration of water rights by the Director in Basins 31 and 32, pursuant to chapter 6, title 42, Idaho Code, based upon a determination that such interim administration is "reasonably necessary to efficiently administer water rights and to protect senior water rights."

7. On November 9, 2005, the Director signed a notice proposing to establish the Mud Lake Area Water District in portions of Basins 31 and 32 overlying the Eastern Snake Plain Aquifer ("ESPA") pursuant to the provisions of Idaho Code § 42-604. Notice was mailed on November 14, 2005, by regular U. S. Mail, to each holder of a water right within the boundaries of the proposed water district. The notice described the water district proposed to be established (Water District No. 110), the reasons therefor, and the time and place for a public hearing to be held on December 5, 2005, concerning establishment of the proposed water district. The notice also provided a time period within which written comments on the proposed action would be accepted.

8. In addition, the Director caused notice to be published of the proposed action establishing the Mud Lake Area Water District once a week for two (2) weeks in the following newspapers having general circulation within the area of the proposed water district: *The Post Register* of Idaho Falls on November 17 and 24, 2005; and the *Jefferson Star* of Jefferson County on November 16 and 23, 2005.

9. The notice mailed to water right holders proposed that establishment of Water District No. 110 would include all water rights authorizing the use of surface water and ground water with points of diversion located within the boundaries of Basins 31 and 32 overlying the ESPA, except those used solely for domestic and/or stock water purposes as defined under Idaho Code §§ 42-111 and 42-1401A(11). The Director's notice advised that a meeting of the holders of water rights within the boundaries of the proposed district be held during the spring of 2006 for the purpose of electing a watermaster and conducting other business necessary to initiate operation of the district.

10. The Director's notice also proposed that the water district watermaster be responsible for certain duties under the direction and supervision of the Director including: (1) measurement and reporting of diversions under water rights; (2) administration of water rights in priority; (3) curtailment and enforcement against unauthorized or excessive diversions; and (4) enforcement of stipulated agreements or mitigation plans approved by the Director.

11. The Director's notice further proposed that existing water districts in Basins 31 and 32 continue to operate but be subsumed into Water District No. 110. There are currently two water districts located within portions of the proposed Water District No. 110: Water District No. 31, Mud Lake and tributaries; and Water District No. 32-C, Medicine Lodge Creek and tributaries. A portion of Water District No 32-C lies within the ESPA, but much of the district also lies outside of the ESPA and the proposed boundaries of Water District No. 110. Some surface water rights and diversions in Water District No. 31 also lie outside of the ESPA and the boundaries of the proposed Water District No. 110.

12. Water District No. 31 includes surface water rights in Basin 31 as well as about 30 or more ground water rights that divert ground water into Mud Lake. The watermaster for Water District No. 31 historically has administered these ground water rights and wells. The rights are subject to the Agreement of Water Right Owners Regarding Delivery of Mud Lake Water, dated April 17, 2001 ("Mud Lake Agreement"), which is on file in the records of the Department and the Clerk and Recorder of Jefferson County, instrument number 307626. The Mud Lake Water Users, Inc., Independent Water Users of Mud Lake, Inc., and Dobson Ranch Partnership, hold the ground water rights and wells under this agreement.

13. Water District No. 32-C includes only surface water rights.

14. The Director's notice proposed that Water District No. 110 would replace the measurement and reporting responsibilities of the North ESPA Water Measurement District ("NWMD") that currently exists within those portions of Basins 31 and 32 overlying the ESPA.

15. The Director conducted a hearing on the proposed establishment of Water District No. 110 at the West Jefferson High School Advanced Learning Center Cafeteria in Terreton, Idaho, at approximately 2:30 pm on December 5, 2005. Approximately thirty-five people attended the hearing.

16. For a period of approximately 90 minutes prior to commencing the hearing, the Director described factors he considered in proposing to establish Water District No. 110 and answered questions about the establishment of the proposed water district and how the district was envisioned to function.

17. Persons attending the hearing were provided an opportunity to make oral statements for the record. In addition, the Director held the record open through December 15, 2005, for the submission of written comments.

18. Two individuals gave oral statements for the record at the hearing in Terreton, Idaho. Four written statements were submitted to the Department on or before the deadline of December 15, 2005.

19. Mr. Lynn Burtenshaw of Terreton, Idaho, testified on his own behalf as the holder of a ground water right in Basin 31. Mr. Burtenshaw testified that if holders of ground water rights within the area of the proposed water district are ever required to provide mitigation, that the priority dates of water rights be recognized, meaning that holders of relatively senior priority

ground water rights should provide or contribute less towards mitigation than holders of more junior priority ground water rights.

20. Mr. Robert Larranaga, manager of the United States Fish and Wildlife Service ("USFWS") Camas National Wildlife Refuge, testified on behalf of the USFWS, which holds ground water and surface water rights in Basin 31 for wildlife uses at the Camas National Wildlife Refuge. Mr. Larranaga stated that the USFWS would like to continue the arrangement it has had with the NWMD regarding measurement and reporting of ground water diversions located within the refuge. The USFS has been measuring diversions from its own wells and reporting diversions directly to the NWMD. An agreement dated December 15, 1998, was executed between the USFWS and the NWMD regarding measurement and reporting of the USFWS ground water diversions within the refuge.

21. On November 21, 2005, the Director received written comments from Mr. Ted S. Sorensen, a shareholder in the Reno Ditch Company located within Water District No. 32-C. Mr. Sorensen stated that surface water rights from Birch Creek do not need to be included in the proposed Water District No. 110 since they are already in Water District No. 32-C.

22. On December 13, 2005, the Director received written comments from Mr. Bryce A. Contor of Iona, Idaho. Mr. Contor stated that he has worked with water right holders and developed an understanding of the water rights in the proposed water district as a result of having held previous employment positions with NWMD, the Department, and the University of Idaho. Mr. Contor stated that the ground water rights and wells historically administered by Water District No. 31 should "remain solely under the administration of the watermaster of Water District 31." Mr. Contor noted that if the proposed district does not include surface water rights, then the watermaster of the new district could not properly administer the rights under the Mud Lake Agreement. He further stated: "Water District 31 can perform any and all necessary administrative functions for these wells. Including these wells both within Water District 31 and within any new water district would create administrative ambiguity, an unnecessary burden for watermasters of both districts, and an unnecessary burden for owners of the wells."

23. Mr. Contor also noted that some wells outside of Water District No. 31 but in the NWMD are currently measured and reported by the watermaster for Water District No. 31 directly to the NWMD. Mr. Contor suggested that additional administrative efficiency could be gained "by assigning these wells to Water District 31 rather than to the new water district."

24. On December 14, 2005, the Director received written comments from Mr. Kent W. Foster, attorney for the Mud Lake Water Users, Inc. ("MLWU"). Mr. Foster stated that MLWU does not concede or admit that either the surface and ground water sources upon which MLWU rely are hydraulically connected to the Snake River.

25. MLWU requested that its ground water rights continue to be administered by the watermaster of Water District No. 31, since these rights are administered in connection with other surface water rights belonging to MLWU and others in Water District No. 31. MLWU stated that: "Shifting such responsibility to the new Water District 110 would provide no practical benefit and could result in the unnecessary creation of confusion or worse problems."

26. MLWU further stated in its letter that it objected to the practice of the Camas National Wildlife Refuge measuring ground water diversions from its own wells and reporting the measured diversions directly to the NWMD. MLWU requested that the USFWS wells and rights "be administered by the appropriate State watermaster, the same as for all other water users." MLWU also stated that "there is no legal reason for separate or different treatment and the practical considerations mitigate in favor of similar and equal administration practices."

27. On December 16, 2005, the Director received written comments from Mr. Jerry R. Rigby, attorney for various ground water users located within the proposed boundaries of Water District No. 110, but not administered by Water District No. 31. Mr. Rigby stated that his clients generally agreed with the boundaries proposed for Water District No. 110. Mr. Rigby further stated that nothing in his letter "should be construed as an admission by the ground water users within the proposed 110 boundary that their ground water sources are hydraulically connected to the Snake River."

28. After the close of the written comment period, the Department received inquiries from several NWMD advisory committee members regarding inclusion of two ground water wells used for irrigation and located in Basin 21 immediately adjacent to the boundaries of the proposed Water District No. 110. The points of diversion for the two ground water rights in question are located in the north half of Section 6, Township 7 North, Range 38 East. The holder of these ground water rights, Richard Egbert, holds additional ground water rights and diversions within the proposed boundaries of Water District No. 110. The NWMD has historically measured and reported the ground water diversions for the Egbert wells in Basin 21 because the wells are proximate to the NWMD and because Egbert owns other irrigation wells in the NWMD.

29. The State of Idaho did not file a motion with the SRBA District Court seeking an order for interim administration of water rights in Basin 21 until January 18, 2006, the date on which the Director's Report for the ground water rights in Basin 21 overlying the ESPA was filed. The court has scheduled a hearing for this matter on April 18, 2006.

30. A portion of the boundaries for the Bonneville-Jefferson Ground Water District ("BJGWD") overlaps a portion of Basin 31 and the proposed boundaries of Water District No. 110. This overlap occurs in Township 5 North, Range 35 East, Sections 25 through 36, although there are no water rights or irrigation within this area.

31. The water supply from the ESPA is hydraulically connected to the Snake River and tributary surface water sources at various places and to varying degrees. Locations at which a direct hydraulic connection exists between the ESPA and the Snake River, or between the ESPA and water sources tributary to the Snake River, include the Ashton to Rexburg reach of the Henrys Fork and the Heise to Shelley reach of the Snake River, located along the northeastern edge of the ESPA in the vicinity of Rexburg and Roberts, Idaho.

32. The available water supply in all or portions of Basins 31 and 32 overlying the ESPA are currently not always adequate to satisfy some senior priority water rights that are hydraulically connected to the ESPA, and is projected in the future to be insufficient, at times, to satisfy those water rights.

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, 42-220, 42-226, 42-237a.g., 42-351, and 42-602 et seq.

3. Idaho Code §§ 42-226 and 42-237a.g. assign the authority and responsibility to the Director for the administration of ground water use 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 the authority and responsibility for direction and control over the distribution of surface water and ground 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 uses of the water resource.

6. In addition, Idaho Code § 42-1417 provides that the district court having jurisdiction over a general water rights adjudication may authorize the interim administration of water rights pursuant to chapter 6, title 42, Idaho Code, prior to the entry of a final decree, in accordance with Director's Reports filed with the court, with or without modification by the court, or in accordance with partial decrees that have superseded the director's reports.

Response to Testimony and Written Comments

7. Most of the written comments submitted to the Department expressed concerns about inclusion of some water rights and sources in the proposed Water District No. 110 that are currently administered by an existing water district.

8. Based on review of the Department's water rights records, there are surface water rights within Basins 31 and 32 included within two existing water districts that are outside of the boundaries for the ESPA. The Director concludes that at this time the two existing water

districts in the area, Water District No. 31 and Water District No. 32-C, should continue to administer all surface water rights both within and outside of the proposed boundaries for Water District No. 110.

9. Certain ground water rights that authorize diversion of ground water and conveyance of the ground water diverted into Mud Lake have historically been administered by the watermaster of Water District No. 31. The administration of these ground water rights is subject to the Mud Lake Agreement cited in Finding 12. The Mud Lake Agreement specifies the ground water rights affected by the agreement, each of which have been decreed by the SRBA District Court, and the decree for each right includes a condition that references the agreement.

10. Ground water rights subject to the Mud Lake Agreement should continue to be administered by the watermaster for Water District No. 31 and should not be included in the proposed Water District No. 110 at this time for purposes of administration. However, the exclusion of these rights from the proposed water district does not diminish the Director's responsibility to seek appropriate administration of these rights through direction and supervision of the watermaster for Water District No. 31 to ensure that the administration of surface and ground water rights in Water District No. 31 fully complies with Idaho law.

11. Other written comments and testimony at the hearing in Terreton, Idaho, on December 5, 2005, addressed concerns about either continuing or discontinuing arrangements with the USFWS to measure and report diversions of ground water on the Camas National Wildlife Refuge under rights held by the USFWS. Comments submitted in opposition to this arrangement alleged that this provided for separate or different treatment of the rights held by the USFWS, and that diversions under all water rights in the proposed water district should be measured and administered by the appropriate state watermaster.

12. Documents on file with the Department show that both the Monteview Canal Company ("Monteview") and Producers Canal Company ("Producers") also have had agreements with the NWMD dating back to 1997 for the measurement and reporting of ground water diversions under water rights held by each company, similar to the agreement between the USFWS and the NWMD. Under both the Monteview and Producers agreements, canal company ditch riders have measured, recorded, and reported ground water diversions to the NWMD in coordination with the watermaster for Water District No. 31. The watermaster for Water District No. 31 has also coordinated with the Jefferson Irrigation Company ("Jefferson") for the measurement and reporting of Jefferson's ground water diversions to the NWMD.

13. Ground water rights held by Monteview, Producers, and Jefferson have not historically been administered by the watermaster for Water District No. 31.

14. The agreement between the USFWS and NWMD for measuring and reporting ground water diversions is not unique in Basin 31. Three canal companies in the area have made similar arrangements with the NWMD for measuring and reporting diversions of ground water under their rights.

District Creation

15. Based on the Director's statutory authorities, the order of the SRBA District Court authorizing the interim administration of water rights pursuant to chapter 6, title 42, Idaho Code, and the record in this proceeding, the Director should establish a new water district, Water District No. 110, to administer ground water rights that are not already included within Water District No. 31 within those portions of Administrative Basins 31 and 32 overlying the ESPA, as shown on the map appended hereto as Attachment A, to protect senior priority water rights.

16. Water rights authorizing the diversion and use of ground water in that portion of Basin 21 within the proposed boundaries of Water District No. 110 are subject to being included in Water District No. 110 at such time that the Director is authorized to administer such rights pursuant to chapter 6, title 42, Idaho Code.

17. A portion of the Bonneville-Jefferson Ground Water District in Township 5 North, Range 35 East, Sections 25 through 36, falls within Basin 31 and the proposed boundaries of Water District No. 110. Although there are no ground water rights within the overlapped area, other than small domestic and stockwater rights as defined under Idaho Code § 42-111 and 42-1401A(11), the overlapped area of the Bonneville-Jefferson Ground Water District should be excluded from Water District No. 110. Instead, the boundaries for Water District No. 120 should be extended in the future to incorporate the overlapped area, since the remaining larger portion of the Bonneville-Jefferson Ground Water District is currently within Water District No. 120 or is proposed to be included when authorized.

18. The water district should be established on a permanent basis and operated to administer the affected water rights in accordance with the prior appropriation doctrine as established by Idaho law.

Administration of Affected Water Rights

19. Providing for the immediate administration of ground water rights within those portions of Basins 31 and 32 overlying the ESPA pursuant to chapter 6, title 42, Idaho Code, other than domestic and stockwater rights as defined under Idaho Code § 42-111 and 42-1401A(11), is necessary for the protection of prior surface and ground water rights.

20. The watermaster of the water district created by this order should perform the following duties in accordance with guidelines, direction, and supervision provided by the Director:

a. Administer and enforce ground water rights in priority;

b. Measure and report the diversions of ground water under the water rights;

c. Curtail illegal diversions (i.e., any diversion without a water right or in excess of the elements or conditions of a valid water right);

d. Curtail out-of-priority diversions determined by the Director to be causing injury to senior priority water rights if not covered by a stipulated agreement or a mitigation plan approved by the Director; and

e. Enforce the provisions of any stipulated agreements or mitigation plans approved by the Director.

21. Additional instructions to the watermaster for the administration of water rights should be based upon available data, ground water model(s), and the Director's best professional judgment.

22. The water district created by this order should include the following organizational features:

a. Election and appointment of a watermaster for the water district may be pursuant to an agreement with the Department to provide watermaster services. Under an agreement with the Department, the watermaster would be a direct employee of the Department and would be provided at no cost to the water right holders for a period of two years.

b. Selection of a Water District Advisory Committee that may include, but need not be limited to, representation from boards of directors for ground water districts or representatives of other water use entities.

c. Deputy watermasters may be appointed by the watermaster, with approval from the Director. Deputy watermasters would work pursuant to supervision by the watermaster consistent with instructions from the Director. Deputy watermasters, if any, may be employees of existing water districts, ground water districts, or other water use entities that are located within the boundaries of the water district. Duties of deputy watermasters that are also employees of an existing water district, ground water district, or other water use entity should be limited to measuring and reporting of diversions.

ORDER

The Director enters the following Order for the reasons stated in the foregoing Findings of Fact and Conclusions of Law.

IT IS HEREBY ORDERED as follows:

1. The Mud Lake Area Water District, designated as Water District No. 110, is hereby established to include all ground water rights in Basins 21, 31, and 32 overlying the ESPA, within the area depicted on the map appended hereto as Attachment A and incorporated herein by reference, excluding: (1) ground water rights included and administered in Water District No. 31 and subject to the Mud Lake Agreement; (2) small domestic and stockwater rights as defined under Idaho Code § 42-111 and 42-1401A(11); and (3) that portion of the

Bonneville-Jefferson Ground Water District in Township 5 North, Range 35 East, Sections 25 through 36, within Basin 31.

2. As soon as practicable in calendar year 2006, holders of water rights included in Water District No. 110 shall meet at a time and place to be determined and noticed by the Director for the purposes of: (1) electing a watermaster; (2) selecting an advisory committee, if desired; and (3) setting a budget and corresponding assessments to be collected for operating the district. In future years, the annual meeting shall be held as provided in Idaho Code § 42-605.

3. The watermaster for Water District No. 110 shall perform the following duties in accordance with guidelines, direction, and supervision provided by the Director, except in Basin 21 until such time that the Director is authorized to administer ground water rights in Basin 21 pursuant to chapter 6, title 42, Idaho Code:

a. Measure, record, and report diversions of ground water under water rights included in Water District No. 110;

b. Administer and enforce water rights in Water District No. 110 in priority;

c. Curtail unauthorized or excessive diversions in Water District No. 110 (i.e., any diversion without a water right or in excess of the elements or conditions of a water right);

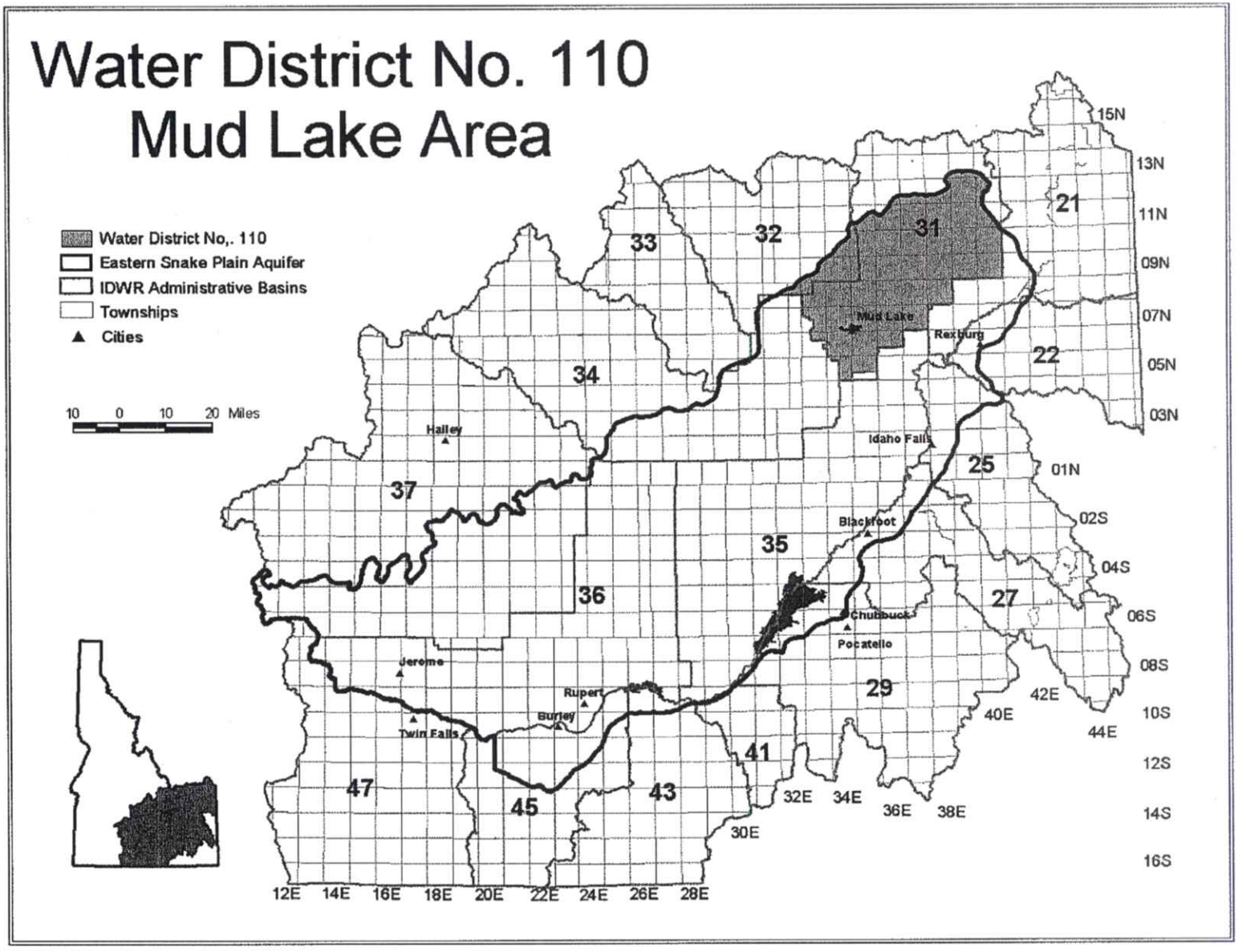
d. Curtail out-of-priority diversions under ground water rights in Water District No. 110 determined by the Director to be causing injury to senior priority water rights if not covered by a stipulated agreement of mitigation plan approved by the Director; and

e. Enforce the provisions of any stipulated agreements or mitigation plans approved by the Director and applicable in Water District No. 110.

DATED this 17th day of April 2006.

KARL J. DREHER
Director

ATTACHMENT A



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(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. ***Note: the petition must be received by the Department within this fourteen (14) day period.*** The department 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(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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 a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

SCANNED

EXPLANATORY INFORMATION
TO ACCOMPANY A
FINAL ORDER

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance 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.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of April, 2006, 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, 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.

/s/ Victoria Wigle

Victoria Wigle
Administrative Assistant to the Director
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