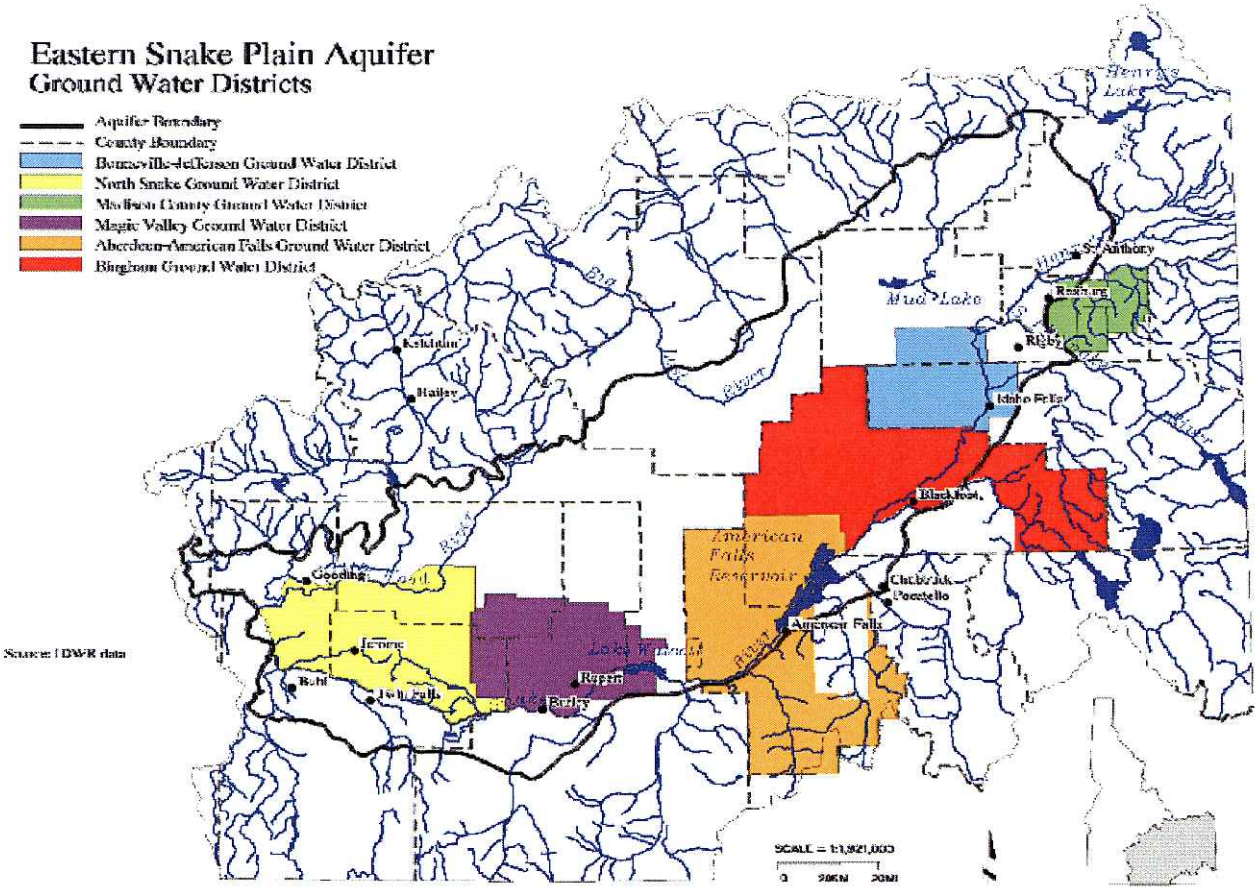
Idaho Ground Water District Handbook

District Formation and Operation Forms



IDAHO GROUND WATER DISTRICT HANDBOOK

November 1997

IDAHO DEPARTMENT OF WATER RESOURCES
1301 N. ORCHARD
BOISE, ID 83706

IDAHO GROUND WATER DISTRICT HANDBOOK

PREFACE

The 1995 "Ground Water District Act" adopted by the Idaho Legislature enables ground water users to organize ground water districts in Idaho. Since 1995, four separate ground water districts have been formed within the East Snake Plain Aquifer (see map on cover page). This handbook is intended to serve as a reference and guide for ground water users who may have an interest in organizing a ground water district in Idaho. The book contains both an outline and timeline for initial formation of a district, plus numerous sample forms and documents that may be used to complete this process. Also included are sample bylaws, calendars and other ground water district documents which may be needed once a district is formed. The book also contains a copy of that portion of the Idaho Code that governs Idaho ground water districts (Title 42, Chapter 52, Idaho Code).

ACKNOWLEDGEMENTS

All of the documents in this handbook have been submitted by the following ground water districts:

Aberdeen-American Falls Ground Water District
Bingham Ground Water District
Magic Valley Ground Water District
North Snake Ground Water District

The Idaho Department of Water Resources wishes to acknowledge and give special thanks to the board of directors of the above districts, and the following legal representatives of the districts who prepared the documents:

Josephine Beeman, North Snake Ground Water District
Michael Creamer, Magic Valley Ground Water District
Henry Boomer, Aberdeen-American Falls and Bingham Ground Water Districts

Additional recognition is given to Roberta Loveall, Idaho Department of Water Resources, who contributed to the organization and copying of this handbook.

INTRODUCTION

In 1994, a shockwave went through the farming communities of the East Snake Plain Aquifer (ESPA), the huge natural underground water storage that, along with surface water irrigation, has made the Snake River Plain bloom like a rose. The A & B Irrigation District had just petitioned the Idaho Department of Water Resources for a "delivery call", requesting an order requiring holders of junior water rights, mainly ground water pumpers, to cease pumping until A & B's ground water levels rose to what they considered to be acceptable pumping levels. This delivery call caused concern among most junior ground water right holders within the ESPA.

A group of junior pumpers and A & B representatives were able to fashion an interim agreement that was designed to try to satisfy the concerns of A & B and other senior water users, without junior pumpers facing the specter of shutting off their pumps.

The agreement was approved by the Department, and its implementation began. One facet of the agreement provided that ground water pumpers would form districts to measure and report water usage, and to be legally empowered to engage in recharge and mitigation projects.

Organizing into districts had the additional advantage of providing greater political organization and legal clout to ground water pumpers, who had been largely independent and not organized, compared to canal companies and irrigation districts that had been in existence for decades.

With the assistance of the Department, the 1995 session of the Idaho legislature passed laws requiring water measurement and reporting, and providing for creation of both Ground Water Districts and Water Measurement Districts.

It is important for new Ground Water District directors to understand the difference between a Water Measurement District (WMD), a Ground Water Management District (GWMD), and a Ground Water District (GWD).

The sole purpose and power of a Water Measurement District is to measure and report diversions within the district, and to assess its members for the costs.

A Ground Water Management District is empowered to finance the repair or abandonment of wells in aquifers that are losing water or water pressures due to defective or improperly operated wells.

A Ground Water District, on the other hand, may perform the measurement and reporting functions required by law, and levy assessments, the same as a WMD. In addition, a GWD may also develop and participate in mitigation and recharge plans, thereby obtaining credit in the event of a delivery call by holders of senior water rights. (In other words, non-mitigating junior pumpers subject to the same call may have to cease pumping but GWD members operating under an approved mitigation plan would not.)

GWD's can also represent their members in legal and political matters and do anything else "necessary or appropriate to carry out the intents and purposes" of the Ground Water District Act.

In order to assist newly formed Ground Water Districts and their directors and officers, this handbook has been developed. The various forms in this book are included only as guides. Most of the forms have been actually utilized by Ground Water Districts already in existence. However, districts that choose to use these formats should first consult with their attorney. Not only does the law change from time to time, but each factual situation may have differences that require a departure from the standard form.

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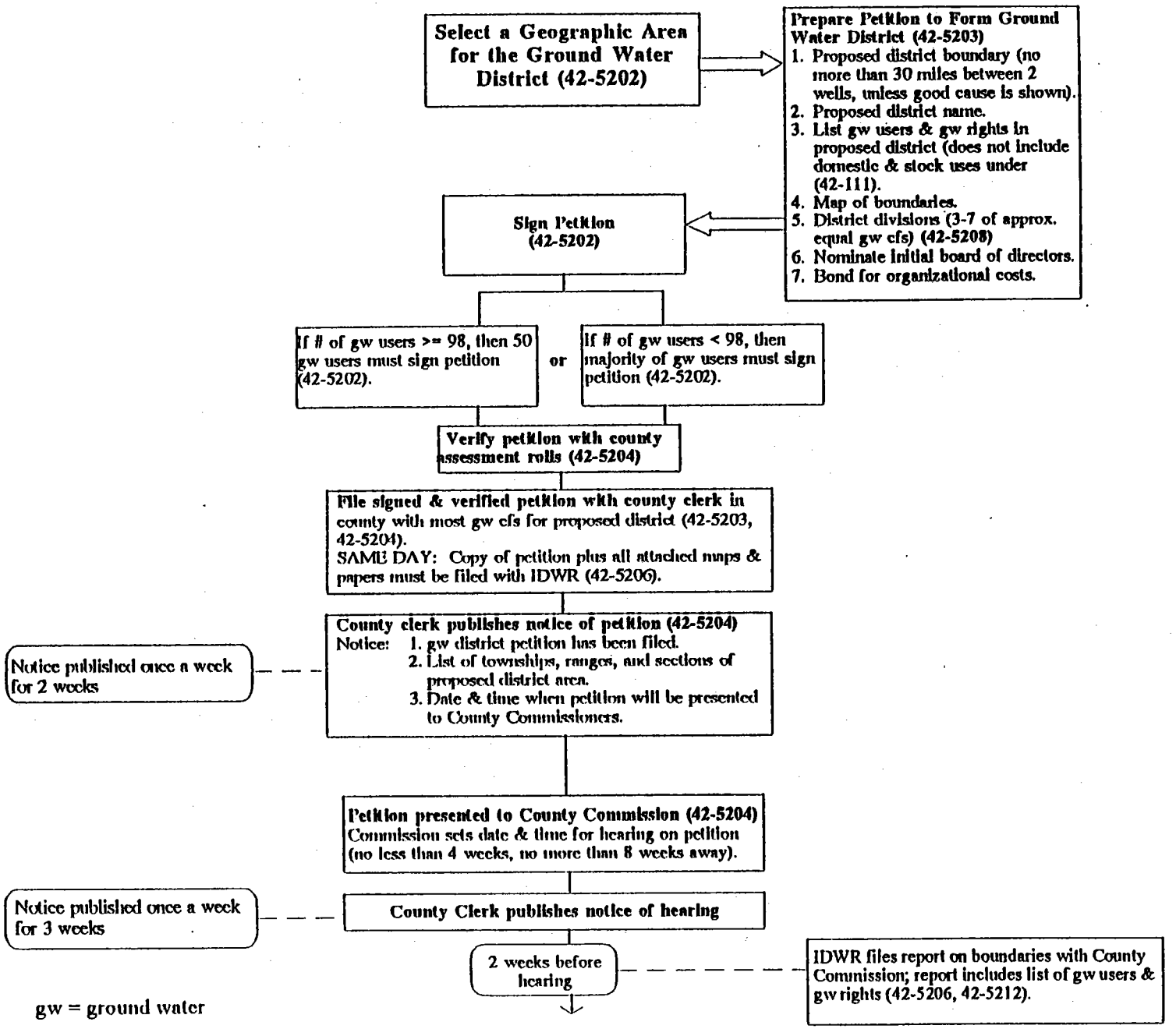
FORMATION OF GROUND WATER DISTRICTS (based on HB 323)



gw = ground water

IDWR = Idaho Department of Water Resources

(Chart cont. on next page)

(This chart describes the statutory steps required for the formation of a ground water district. *Idaho Code* §§ 42-5202 through -5213.)

(Chart cont.)

County Commission hears petition (42-5207)
1. If not enough signatures, may adjourn for 2 weeks.
2. When Commission determines to proceed to hear petition, it may adjourn for no more than 4 weeks total.
3. At hearing, petitioners may amend proposed boundaries.
4. Commission enters written orders to prepare for election--
   1. describes area of proposed district;gw lands within area become part of district (42-5207).
   2. Divides proposed district into divisions; Director of division must be gw user in division elected at large from each division (42-5208); no cumulative voting; each voter shall vote for at least one person from each division for director (42-5209) (42-5211-precinct boundaries will be the same as the division boundaries).
   3. Within 7 days, sends order to IDWR.

IDWR shall revise list of gw users and gw rights as necessary due to boundary changes.

County Commission gives notice of pending election (42-5209)
1. Describes area of proposed district.
2. Proposed name.
3. Map on file with County Clerk.
4. Nominees for initial board of directors.

Notice published once a week for 4 weeks before election

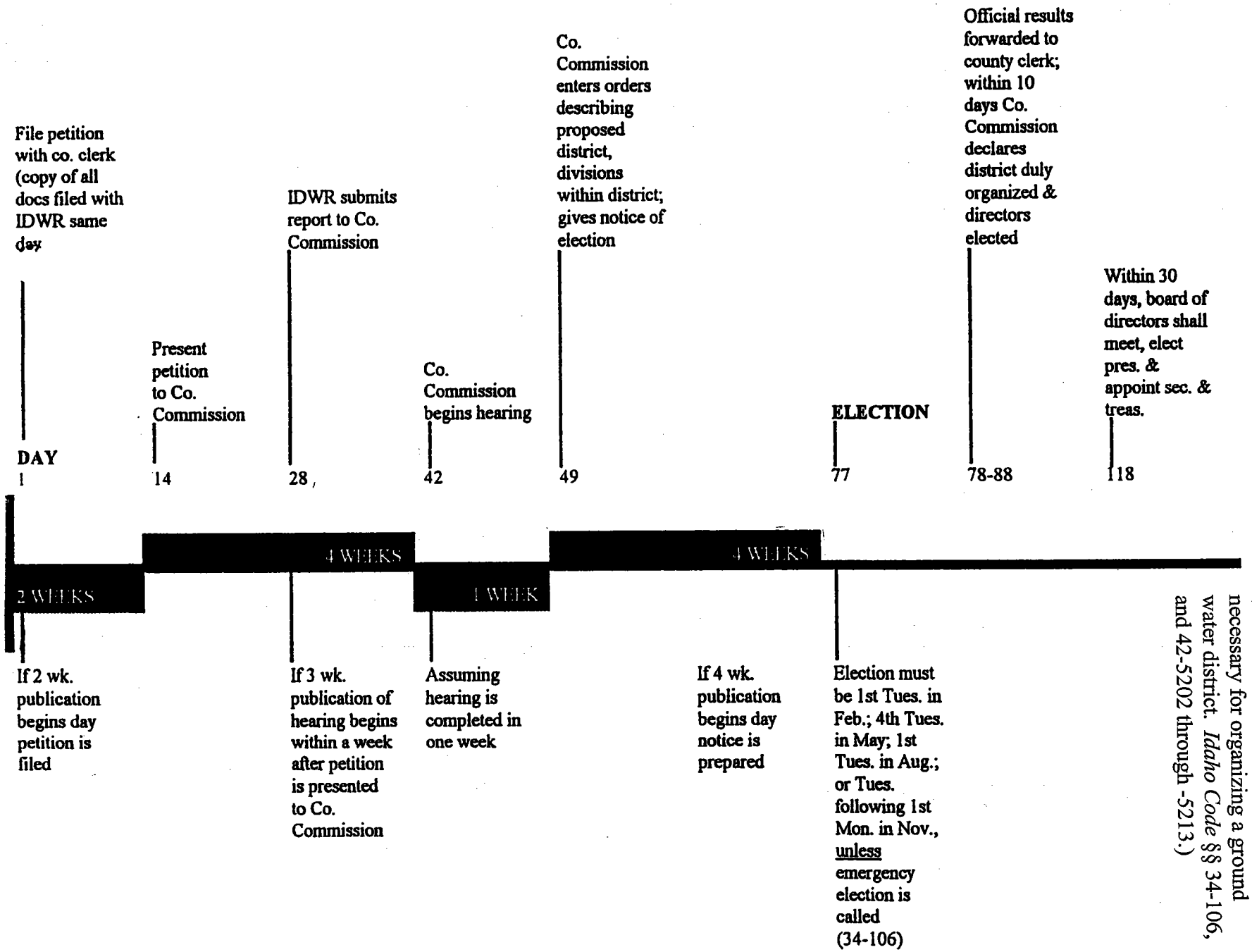
Qualifications of Voters (42-5210)
1. 1 VOTE FOR EACH CFS (or nearest tenth of a cfs).; may vote through representative (proxy for individuals;written designation for corporations or partnerships).
2. Any gw irrigator within proposed district can vote to form district.
3. Nonirrigator (commercial, industrial, municipal) must notify judges of election in writing ten (10) working days before election if it will vote in favor of formation (cannot vote against formation).
4. If voter is not on IDWR list, then must produce decree, permit, license, SRBA claim, or 42-243 claim for beneficial use or constitutional use right, or federal law right.

Election (42-5211) - Election must be 1st Tues. in Feb.; 4th Tues. in May; 1st Tues. in Aug; or Tues. following 1st Mon. in Nov., unless emergency election is called (34-106).

Election Results (42-5213)
1. If 2/3's votes cast are "ground water district--yes," Commission enters order on its minutes to declare territory duly organized as a gw district; and declares director for each division.
2. Order filed for record in each county in which any portion of district is situated.
3. Certified copy sent to IDWR director.
4. Nonirrigator may join district by written notice to district board within 60 days after district is formed.
5. Board of directors shall meet 30 days after election (42-5216).

Levy of Assessments (42-5232)
August 1 - Deadline to identify lands in district assessment book.

MOST OPTIMISTIC TIMELINE FOR ORGANIZING A GROUND WATER DISTRICT (ASSUMING NO DELAYS)



(This table provides the minimum time necessary for organizing a ground water district. *Idaho Code* §§ 34-106, and 42-5202 through -5213.)

[This form is to be submitted in order to form a ground water district as required by Idaho Code § 42-5203.]

BEFORE THE BOARD OF COUNTY COMMISSIONERS
_____ COUNTY

In the Matter of the Petition to form the	)	
_____ Ground Water District	)	PETITION TO FORM
_____	)	GROUND WATER DISTRICT

The undersigned Petitioners, who are ground water users and holders of ground water rights within the boundaries, described below, of the proposed _____ Ground Water District (the "District"), hereby request that their lands, and all the lands of all other ground water users within these proposed boundaries who are subject to inclusion under the ground water district laws, be included within and subject to the assessments of the District for the purposes consistent with Chapter 52, Title 42, Idaho Code.

The proposed lands of the District are described as follows (all of which relate to the Boise Meridian):

[provide legal description of all lands to be included in the ground water district]

The District is to have **[between 3 and 7]** _____ Divisions of approximately equal size, measured on the basis of total amounts of rights to divert ground water contained in each.

Attached hereto and made a part hereof are the following documents:

1. Exhibit A: A list, certified by the director of the Idaho Department of Water Resources as accurately reflecting the records of the department, of the ground water users within the proposed District, which list includes, as to each ground water right number, the point of diversion, and the amount of permissible diversion in cubic feet per second.

2. Exhibit B: A map indicating the proposed boundaries of the District, and displaying the boundaries of the **[between 3 and 7]** _____ Divisions into which the proposed District is to be divided.

3. Exhibit C: Nominations for the director for each Division, each signed by not less than 6 ground water users in the proposed District.

4. Exhibit D: A copy of the bond for $_____, issued by _____ _____. This bond is for twice the amount estimated to be cost to county and to the Idaho Department of Water Resources in organizing the proposed district.

[Provide names and signatures of ground water users that desire to organize the ground water district.

Sample

[This form is to be submitted in order
to form a ground water district as
required by Idaho Code § 42-5203.]

Must be signed by the lesser of 50 ground water users
or the majority of ground water users in the area.]

THE PETITIONERS

Signature	Printed Name	Date

Sample

[This form is to be submitted in order to form a ground water district as required by Idaho Code § 42-5203.]

Exhibit B
Map Indicating the Boundaries of the Proposed District and the Boundaries of the [between 3 and 7] _____ Divisions of the Proposed District

Sample

[Must include separate nomination of director form for each division in the proposed district. Nominations must be signed by at least 6 ground water users with a point of diversion within the district for which the district is nominated.]

Exhibit C
Nominations for Director for Each of the Divisions

We, the undersigned ground water users within the _____ Division (the "Division") of the proposed _____ Ground Water District, hereby nominate, as Director for said Division, _____ **[name of nominee]**.

Signature	Printed Name	Date

Sample

[Must provide bond in double the amount of the probable costs to the county and department organizing the district pursuant to Idaho Code § 42-5203(1)(i).]

Exhibit D
Bond

Sample

(This form may be used to provide public notice of the County Commissioners' hearing on the petition for the organization of the district. *Idaho Code* § 42-5205.)

LEGAL NOTICE

NOTICE OF HEARING ON PETITION FOR THE ORGANIZATION OF THE _____ GROUND WATER DISTRICT

NOTICE IS HEREBY GIVEN: The _____ County Board of County Commissioners will conduct a hearing on the petition for the organization of the _____ Ground Water District on _____ (day of week), _____, 199___, at _____ a.m./p.m. in at _____ (location), _____ (address), _____ (city), Idaho. Pursuant to Idaho Code, Title 42, Chapter 52, all ground water users within the proposed boundaries who are subject to the ground water district laws would become included within and subject to the assessments of the _____ Ground Water District if the District is formed. The lands in _____, _____, and _____ Counties that are proposed to be included within the _____ Ground Water District are as follows (all of which relate to the Boise Meridian):

[LIST DESCRIPTION OF LAND]

* * * * *

_____ (name)
_____ County Clerk
_____, Idaho

(This letter may be used to submit the Notice of Hearing on Petition for the Organization of the Ground Water District to the publisher. *Idaho Code* § 42-5205.)

Date

Newspaper
City, State

Re: Notice of Hearing on Petition for the Organization of the _____ Ground Water District

Dear _____:

Attached is a legal notice entitled Notice of Hearing on Petition for the Organization of the _____ Ground Water District. Please publish the legal notice in the _____ ____, ____, and _____ (dates) editions of the _____(name of publication). Please note that the Notice must be published during those three weeks. Since the Notice contains a lengthy and detailed legal description, please fax me a galley proof of the Notice for review prior to publication.

A bill for the publication fees may be mailed to me for handling. Also, please forward to me affidavits of publication confirming publication of the legal notices in the newspaper for the three consecutive weeks.

If you have any questions about these instructions, please do not hesitate to contact me. It is important that the legal notice is published for three weeks. If you cannot publish the notice on the requested dates, please contact me immediately.

Sincerely,

Enclsoure
cc: _____, _____ County Clerk
(name of clerk)

(This form may be used by the County Commissioners to order an election to determine whether the ground water district shall be organized. *Idaho Code* § 42-5207.)

BEFORE THE BOARD OF COMMISSIONERS OF _____ COUNTY, IDAHO

In the Matter of the Petition to form the _____ Ground Water District _____	))))	**ORDER ON PETITION TO FORM _____ GROUND WATER DISTRICT**

DESCRIPTIVE SUMMARY

This order establishes _____, 199___ as the date for ground water users within described areas of _____, _____, and _____ Counties to vote for the organization of the _____ Ground Water District (the "District") pursuant to the Ground Water District Act in Title 42, Chapter 52 of the Idaho Code.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On _____, _____, 199____, the Board of Commissioners for _____ County met at _____ (time) in the _____ (location) to hear the Petition to form the _____ Ground Water District (the "Petition"). The Petition had been filed and presented earlier and complied with the form, content and signature requirements of the Ground Water District Act.

Although the proposed district encompasses land within _____, _____, and _____ Counties, _____ County contains the greatest proportion of cubic feet per second of ground water rights of the proposed district, and the Ground Water District Act requires _____ County to conduct the hearing on the Petition.

_____ (name) and others filed the Petition with _____ (name), the _____ County Clerk, on _____, 199___, and then presented the Petition to the Board of Commissioners for _____ County on _____, 199___, following publication of notice on _____ and _____ (dates) in the _____ *and* _____ (publications). The Board of Commissioners for _____ County set _____, 199____ as the hearing date for the Petition and the Notice of Hearing on Petition for the Organization of the _____ Ground Water District was published _____, _____, and _____, 199___ in the _____ and _____ (publications).

On _____, 199___, the Idaho Department of Water Resources filed a report with _____ (county clerk), responding to the Petition. An Addendum to the Report was filed _____, 199___.

During the hearing, the Petitioners, through _____, _____, _____, _____, _____ and _____ explained the purposes for organizing the _____ Ground Water District and the location of the exterior boundaries and the seven proposed district divisions. [SUMMARIZE HEARING SUCH AS: _____ (name) from the Idaho Department of Water Resources, stated that _____ _____ _____. _____(name), an attorney representing the proposed _____ Ground Water District, explained that the Ground Water District Act allows the District to be greater than 30 miles long for "good cause."]

The Petitioners did not ask to change the proposed boundaries and no one else either at the hearing or in writing asked to be included or excluded from the proposed boundaries. No additional nominations were filed for directors of the proposed District.

The proposed boundaries and divisions are acceptable and proper. There is good cause for the District to be more than 30 miles long. The proceedings have complied with the requirements of the Ground Water District Act.

DECISION AND ORDER

Upon motions duly made, seconded and unanimously adopted, the Board of Commissioners of _____ County decides and orders that:

1. Boundaries of the proposed district. If the vote of the electors accepts organization of the District, the lands of ground water users within the District will be organized into a ground water district. The boundaries for the proposed _____ Ground Water District shall include the lands described in the legal notice published _____, _____. and _____, 199___, as set forth below:

[LEGAL DESCRIPTION OF DISTRICT LANDS]

2. Proposed District divisions. The proposed _____ Ground Water District shall be divided into _____ (___) (number) divisions, as drawn on the map to the Petition. The nominations for directors contained the requisite ____ (number) signatures for the Ground Water District Act. The nominated directors and their divisions shall be as follows:

Division 1 _____

Division 2 _____

Division 3 _____

Division 4 _____

Division 5 _____

Division 6 _____

Division 7 _____

3. Election. In accordance with Idaho Code §§ 42-5209 and 34-106, _____ (day), _____, 199___ shall be the date set for the election to determine whether the

_____ Ground Water District shall be organized and who shall be its initial directors. Notice shall be published as required by the Ground Water District Act.

4. Authorization. The chairman of the board is authorized to sign this order on behalf of the board.

DATED this _____ day of _____, 199____.

_____(signature)
_____(name), Chairman
Board of Commissioners
_____ County, Idaho

(SEAL)

ATTEST:

_____(signature)
_____(name), County Clerk
_____ County, Idaho

(This form may be used to prepare a Notice of the Election on the Organization of the Ground Water District. *Idaho Code* § 42-5209.)

LEGAL NOTICE

NOTICE OF ELECTION ON THE ORGANIZATION OF THE _____ GROUND WATER DISTRICT

NOTICE IS HEREBY GIVEN: Pursuant to Idaho Code, Chapter 52, Title 42, the Board of Commissioners for _____ County have ordered that an election shall be held on _____, _____, 199____, for the purpose of determining whether the _____ Ground Water District (the "District") shall be organized and, if so, who shall be its initial directors. The following polling places shall be open from 8:00 a.m. to 8:00 p.m. on _____, 199_____, for the purpose of voting:

_____	_____
_____	_____
_____, Idaho _____	_____, Idaho _____
_____	_____
_____	_____
_____, Idaho _____	_____, Idaho _____
_____	_____
_____	_____
_____, Idaho _____	_____, Idaho _____

Electors shall be required to cast ballots containing the words, "Ground Water District --- Yes," or "Ground Water District --- No," and to cast ballots for each of the directors of the District. All ground water irrigators, as defined by statute, within the proposed District's boundaries may vote at the election. As provided by statute, holders of ground water rights for commercial, municipal or industrial purposes within the proposed District's boundaries may participate in the election only by providing the judges of election notice in writing at least ten (10) working days prior to the election.

All ground water irrigators within the boundaries of the District will become members of the District and subject to its assessments if the District is formed. Holders of commercial, municipal or industrial ground water rights may become members if they participated in the election by providing ten (10) working days notice or by providing notice in accordance with statutory requirements within sixty (60) days after the date on which the District is formed.

The following persons have been nominated to be directors of the District:

Division 1 _____
Division 2 _____
Division 3 _____
Division 4 _____
Division 5 _____
Division 6 _____
Division 7 _____

A map showing the boundaries for the proposed _____ Ground Water District and its divisions is on file in the office of the _____ County Clerk. The lands in _____, _____ and _____ Counties that will be included within the _____ Ground Water District, if the vote of the electors accepts District organization, are as follows (all of which relate to the Boise Meridian):

[LIST DESCRIPTION OF LAND]

* * * * *

_____
_____ County Clerk
_____, Idaho

(This letter may be used to submit the Notice of Election on the Organization of the Ground Water District to the publisher. *Idaho Code* § 42-5209.)

Date

Newspaper
City, State

Re: Notice of Election on the Organization
of the _____ Ground Water District

Dear _____:

Attached is a legal notice entitled Notice of Election on the Organization of the _____ Ground Water District. Please publish the legal notice in the _____ ____ and ____ (dates) editions of the _____(publication). Please note that the Notice must be published during those two weeks. Since the Notice contains a lengthy and detailed legal description, please fax me a galley proof of the Notice for review prior to publication.

A bill for the publication fees may be mailed to me for handling. Also, please forward to me affidavits of publication confirming publication of the legal notices in the newspaper for two consecutive weeks.

If you have any questions about these instructions, please do not hesitate to contact me. It is important that the legal notice is published for two weeks. If you cannot publish the notice on the requested dates, please contact me immediately.

Sincerely,

Enclosure
cc: _____, _____ County Clerk
(name of clerk)

(This form may be used by non-irrigators to cast vote(s) in favor of ground water district formation pursuant to *Idaho Code* § 42-5210(3).)

NOTIFICATION BY NONIRRIGATOR

TO THE JUDGES OF ELECTION FOR THE ORGANIZATIONAL ELECTION OF THE PROPOSED _____ GROUND WATER DISTRICT:

I, the undersigned, state, declare, confirm and swear, under penalty of perjury, that I am a citizen of the United States, eighteen (18) years old or older and am qualified to vote at general elections in this state, registration not being required; that I am a resident of _____ County, and am a ground water user within the proposed _____ Ground Water District, or I am a representative of a ground water user within the proposed _____ Ground Water District; and that I am a holder of ground water right(s) number(s), or am a representative of a holder of ground water right(s) number(s), _____

_____

_____ for commercial, municipal, and/or industrial purposes within the proposed _____ Ground Water District.

I hereby notify the judges of election that I, or the ground water user I represent, support the formation of the _____ Ground Water District; that I, or the ground water user I represent, elect to become a member [for all purposes] [only for mitigation purposes] (pick one) and; that by this notice, cast my vote(s) in favor of formation. Attached hereto is evidence of such commercial, municipal, or industrial ground water use in the form of decree(s), permit(s), license(s), adjudication claim(s), statutory claim(s) or right(s) based

on federal law, as applicable, for each of the water right numbers referenced above. The attached documents contain a legal description of the land through which these ground water right(s) number(s) are placed to beneficial use and a statement of the amount of these ground water rights in cubic feet per second of diversions.

I understand that if the election results in formation of the _____ Ground Water District, that I, or the ground water user that I represent, shall be a full member of such district and shall have all the obligations, rights, and limitations attaching thereto.

Dated this _____ day of _____, 199___.

_____
Signature

_____
Printed Name

_____
Residence Address

_____
Mailing Address
(if different from residence address)

_____
Representing
(if applicable, also attach written authorization)

(This form may be used to prepare the ballots for the ground water district organizational election. *Idaho Code* §§ 42-5211 through -5213.)

OFFICIAL BALLOT
_____ GROUND WATER DISTRICT ELECTION
date

No. _____

OFFICIAL BALLOT
_____ GROUND WATER DISTRICT ELECTION
date

GROUND WATER DISTRICT ORGANIZATION ELECTION
Instructions to Voters

To vote for the organization of the district, place a cross (X) in the voting square to the right of the words "Ground Water District--YES." To vote against the organization of the district, place a cross (X) in the voting square to the right of the words "Ground Water District--NO."

Ground Water District--YES ☐

Ground Water District--NO ☐

BOARD OF DIRECTORS ELECTION
Instructions to Voters

To vote for a candidate for the Board of Directors of the _____ Ground Water District, place a cross (X) in the square to the right of the candidate's name. Each voter may vote for a maximum of _____ ( ) (number) candidates for the Board of Directors.

Division 1 _____ ☐

Division 2 _____ ☐

Division 3 _____ ☐

Division 4 _____ ☐

Division 5 _____ ☐

Division 6 _____ ☐

Division 7 _____ ☐

_____ irrigation cfs

(This form may be used as the elector's oath in a ground water district election. *Idaho Code* § 42-5212.)

ELECTOR'S OATH
_____ GROUND WATER DISTRICT ELECTION

date

STATE OF IDAHO)
) ss.
County of _____)
_____)

_____ Precinct

I do solemnly swear (or affirm) that I am a citizen of the United States, eighteen (18) years old or older, and have resided in this State in _____ County for thirty (30) days prior to this election; and that I am a resident of _____ County, and I am a ground water user within the proposed _____ Ground Water District, or I am a representative of a ground water user or users within the proposed _____ Ground Water District and that I have not previously voted in this election based on ground water irrigation rights held by the individual(s) and/or entity(s) indicated below.

Signed:_____

Printed Name:_____

Voting for:_____

Residence Address: _____

Mailing Address: _____

Subscribed and sworn to before me this _____ day of _____, 199____.

_____
Judge of Election

(This form may be used to provide the judges of election instructions for the ground water district organizational election. *Idaho Code* §§ 42-5210, -5211, and -5212.)

Instructions to Judges of Election for_____ (date)
Election to Organize the _____ Ground Water District.

ELECTOR'S OATH

Only one elector's oath per ground water user. A person may vote on behalf of more than one ground water user, but must fill out an elector's oath for each separate named ground water user. Some voters will have written proxies or authorizations. Attach the proxy/authorization to the elector's oath for the ground water user for whom the vote is being cast.

BALLOT

- There will be one ballot for each elector's oath.
- The cfs for the ballot will be written in the bottom left-hand corner of the ballot.
- To determine the cfs to write on the ballot refer to the two WATER RIGHT LISTS.

1. Check both lists for the name of the ground water user listed on the elector's oath.

2. Total the number of cfs listed with the name (round to the nearest tenth of a cfs). The shorter list has only one column for cfs. The longer list has two columns: use the right hand column. All cfs are listed for each ground water user, but not all ground water rights may be listed because some water rights overlap or are part of an interconnected delivery system.

3. If the cfs amount is crossed-out, do not include in the total. Crossed-out cfs are from municipal, commercial, and industrial ground water rights. Please give the owner of the water right the handout entitled MUNICIPAL, COMMERCIAL, AND INDUSTRIAL GROUND WATER RIGHTS.

4. If there are any questions, call the Idaho Department of Water Resources.

(This form provides information about the three ways that municipal, commercial, and industrial ground water users may join ground water districts. *Idaho Code* §§ 42-5210(3), -5214, and -5245 through -5249.)

MUNICIPAL, COMMERCIAL, AND INDUSTRIAL GROUND WATER RIGHTS

This election follows the procedures of the 1995 Ground Water District Act. The Ground Water District Act has a "non-irrigator" category for ground water rights used primarily for municipal, commercial and industrial uses. "Non-irrigator" rights are generally small and non-consumptive compared to irrigation ground water rights and do not automatically become part of the district. Since municipal, commercial, and industrial ground water rights do not automatically become part of the district, they do not vote on the day of the election to organize the district and the water right lists used by the judges of election have crossed-out any ground water cfs used primarily for municipal, commercial, and industrial purposes.

However, municipal, commercial, and industrial ground water rights have three ways to join ground water districts:

1. Municipal, commercial, and industrial ground water rights may vote in favor of the proposed ground water district, but must have voted by _____ (date) which was 10 working days before the _____ (date) election.

2. If the ground water district forms, municipal, commercial, and industrial ground water rights may choose to participate in the district within 60 days.

3. After the 60 days have passed, municipal, commercial, and industrial ground water rights may join a ground water district with permission of the board of directors for the district.

(This form may be used by the County Commissioners to prepare an order establishing the ground water district. *Idaho Code* § 42-5213.)

In the Matter of)
)
_____ Ground Water District)

ORDER

The _____ County Board of Commissioners, having canvassed the votes cast in the election held on _____, 199____, pursuant to a Petition filed _____, 199____, requesting the formation of the _____ Ground Water District; and having found that a two-thirds majority of the votes were cast in favor of the creation of a Water District known as the _____ Ground Water District within the boundaries as set forth in the Petition filed with the Board of Commissioners:

HEREBY ORDER AND DECLARE said territory as described in the Order is a ground water district to be known as the _____ Ground Water District. A map showing the area of the _____ Ground Water District is on file in the office of the County Clerk.

IT IS FURTHER ORDERED that the initial Board of Directors for said District shall be comprised of the following persons having received the highest numbers of votes for director from each division in the election held _____, 199___:

Division 1 _____
Division 2 _____
Division 3 _____
Division 4 _____
Division 5 _____
Division 6 _____
Division 7 _____

Dated this _____, 199___.

BOARD OF COMMISSIONERS

_____ (signature)
_____ (name), Chairman

_____ (signature)
_____(name)

_____ (signature)
_____ (name)

ATTEST:

_____ (signature)
_____ (name), Clerk

[COUNTY RECORDERS' STAMPS]

(These forms may be used by a non-irrigator to provide notice within 60 days after the date on which the district is formed that the non-irrigator wishes to join the district either as a member for all purposes or as a member for mitigation purposes only. *Idaho Code* § 42-5214(3).)

S A M P L E

(Sample 1 - Member for all purposes)

Board of Directors
_____ Ground Water District

Dear Directors,

In accordance with Idaho Code 42-5214(3), (city, dairy, industry, etc. -- use name shown on water right) gives written notice that it wishes to join the _____ Ground Water District as a member for all purposes.

Sincerely,

_____(signature)
_____(printed name)
_____(title)

[ATTACH COPY OF CORPORATE RESOLUTION OR OTHER DOCUMENT EVIDENCING SIGNATORY'S AUTHORIZATION.]

(Sample 2 - Member for mitigation purposes only)

Board of Directors
_____ Ground Water District

Dear Directors,

In accordance with Idaho Code 42-5214(3), (city, dairy, industry, etc. -- use name shown on water right) gives written notice that it wishes to join the _____ Ground Water District as a member for mitigation purposes only.

Sincerely,

_____(signature)
_____(printed name)
_____(title)

[ATTACH COPY OF CORPORATE RESOLUTION OR OTHER DOCUMENT EVIDENCING SIGNATORY'S AUTHORIZATION.]

(This form provides information for conducting the organizational meeting of the board of directors. *Idaho Code* § 42-5216.)

ORGANIZATIONAL MEETING OF THE BOARD OF DIRECTORS

BASIC RULES REGARDING VOTING, MEETINGS, AND RECORDS (I.C. 42-5223)

* A majority of the Board shall constitute a quorum for the transaction of business, but a majority of the board members must concur on Board action.

* The Board must have a regular monthly meeting in the district's office. Special meetings may be held on 72 hours' notice of the chairman or a majority of the members.

* Board meetings are open to the public.

* Board records are open to members (or their representatives) during business hours.

ITEMS WHICH BOARD MUST ACCOMPLISH AT ORGANIZATIONAL MEETING (I.C. 42-5216)

1. Elect a chairman from among the board of directors [The statute requires the directors to be "qualified" according to law. The Secretary of State's office says the directors are "qualified" by operation of the election and subsequent declaration by the county commissioners. No other written documents are necessary.]

2. Appoint a secretary and a treasurer to hold office at the pleasure of the board.

3. Fix an amount for the bond of the treasurer which shall be at least 50% of the maximum probable amount of money in the treasurer's hand at one time

THE TREASURER (I.C. 42-5223 AND 42-5241)

1. Execute and file with the secretary an official bond in the amount fixed by the Board of Directors. The bond must be executed by a lawfully qualified surety company.

2. On or before the third Tuesday of July EACH YEAR, the treasurer must certify separate lists to the county auditors. For each county the list shall contain the following information for each ground water district member who has land in that county:

* Legal description of land within the _____ Ground Water District.

* The assessor's parcel number.

* The name and last known address of the owner of record.

* The amount of the assessment for each parcel. (PLEASE NOTE: To simplify the county collection process, the assessment certified to the county is required to be called the "operation and maintenance" assessment of the _____ Ground Water District. This "lump" assessment certified to the county will actually be the total of several different types of assessments within the district which the secretary of the district maintains on the district's assessment book. The district assessments may include: the debt retirement fund, the mitigation expense fund, and the operating expense fund. (I.C. 42-5232)

* The procedure to collect assessment information for the American Falls Reservoir District No. 2 may be a model for the ground water district.

THE SECRETARY (I.C. 42-5232)

1. The secretary of the board is the assessor of the district. On or before August 1 of each year, the secretary shall prepare an assessment book containing a full and accurate list of all lands within the district that are subject to assessment. The assessments may include the debt retirement fund, the mitigation expense fund, and the operating expense fund.

ITEMS WHICH BOARD MAY ADDRESS AT THE ORGANIZATIONAL MEETING (I.C. 42-5223)

1. Designate an office of the district.

2. Select day of the month for the Board's required monthly meetings. The Ground Water District Act sets the first Tuesday of the month, UNLESS the Board by resolution sets another date.

3. Fix the compensation of the board members for attending meetings and engaging in official business under order of the board.

4. Fix "actual and necessary" expenses for traveling and lodging of directors when absent from their residences to perform board duties.

* 5. CURRENT FINANCES. Before the collection of the first assessment, the Board may incur indebtedness for the purpose of organization, or for any of the other purposes of the ground water district. To raise this money, the district may issue warrants not to exceed $1.00/.02 cfs (roughly, $1.00 per acre). After the first assessment, the board may issue warrants at any time not to exceed anticipated revenue (the $1.00 per acre limit may not apply). (I.C. 42-5233)

* 6. ASSESSMENTS. Determine the assessments related to maintenance and operation of the district. These operation and maintenance duties include making the assessment book, programs or projects of the district, to the extent the programs or projects are not attributable to mitigation plans or purposes. (The operating expense fund.) Later, if the board incurs debt for a mitigation plan, it can determine the annual assessments for the indebtedness of the district. (The debt retirement fund.) Another category of assessment relates to the expenses of developing operating or maintaining any mitigation plan established by the district and the cost of contracts with any person for mitigation plans. (The mitigation expense fund.) (I.C. 42-5232)

* 7. COUNTY COLLECTION OF ASSESSMENTS. Adopt a resolution providing that pursuant to Idaho Code 42-5241, the _____ Ground Water District desires to have the district assessments collected by the county treasurers. Furnish a copy of the resolution to the county auditors.

* 8. NOTICE TO MANDATORY MEMBERS. Select a method to notify all the mandatory members of the district that they are members, that the district has an office and regular monthly meetings and that they will be subject to assessments, and when they can expect to know which of their lands are subject to assessment. No statute requires this, but it seems a very necessary step. [IDWR may be able to provide addresses on disk.]

* 9. NOTICE TO MUNICIPAL, COMMERCIAL AND INDUSTRIAL GROUND WATER USERS. Consider whether the notice to the mandatory members might include notice to municipal, commercial, and industrial users who have a 60 day window to join the district. After 60 days, the municipal, commercial, and industrial users join only with approval of the board, although they may ask later to contract with the district for mitigation purposes only.

10. BY-LAWS. The members of the district should adopt by-laws for operation of the district. This is another reason to give notice to and have a meeting of the members.

[This form is an agenda for all regular meetings of a ground water district's Board of Directors and may be adopted by resolution of the Board as a standing agenda in lieu of publishing an agenda prior to each Board meeting.]

_____ GROUND WATER DISTRICT

Regular Meeting of the Board of Directors
Standing Agenda

I. Review and approval of Secretary's minutes of previous meeting(s).

II. Treasurer's Report

III. Old Business

IV. New Business

V. Consideration of additional matters brought before the Board pursuant to notice.

VI. Adjournment

Sample

(This form may be used when the Directors of a ground water district unanimously agree on actions to be taken on behalf of the ground water district. When a resolution is made at any special meeting of the Board, it should be accompanied by a waiver of notice.)

RESOLUTION OF THE BOARD OF DIRECTORS OF THE

_____ GROUND WATER DISTRICT

WHEREAS a meeting of the Board of Directors of the _____ Ground Water District was held on _____, at _____ o'clock ___m. at _____, at which all Directors were present; and

WHEREAS, the Board, by **[unanimous, majority]** vote, determined that the best interests of the District would be served by _____ **[describe actions proposed to be taken]**;

IT THEREFORE IS RESOLVED AS FOLLOWS:

1. _____;

2. _____;

3. _____;

4. _____.

[list actions that the Board of Directors approves]

DATED this ____ day of _____, _____.

(Seal)

_____, Secretary

Sample

(This form provides instructions for ground water district director elections following the initial one-year term of service for the directors elected in the organizational process. *Idaho Code* § 42-5218.)

INSTRUCTIONS ON GROUND WATER DISTRICT DIRECTOR ELECTIONS

Idaho Code § 42-5218 (attached) governs the election, term of office, nominations and qualifications for directors following the initial one year term of service for the board of directors elected in the district organizational process.

Election Date

The election must be held in accordance with *Idaho Code* § 34-106(1)(attached) which dictates the dates for county elections.

Nominations

The first step for the election will be the filing of written nominations with the secretary of the district not less than 28 days, nor more than 42 days before the date of the election. Each written nomination must be signed by the required number of members. Every director must be a ground water user and a member of the district in the division he or she seeks to represent.

The Ground Water District Act does not provide that notice be given of the nomination deadline. The Secretary of State's office has indicated that no notice is required because the ground water districts are exempted from the general election laws. *Idaho Code* § 34-1401 (attached). If, as a courtesy, you want to provide notice of the nomination deadline, *Idaho Code* § 34-1405 (attached) which requires the notice to be published not more than fourteen (14) nor less than seven (7) days before the nomination deadline, may be used as a guideline. The notice could simply state that _____, 199___ is the deadline for nominations for directors of the _____ Ground Water District and that nomination forms are available at the office of the district (street address) and that nominations must be filed at the same office.

Election by Mail

The current board of directors may provide that the election be conducted by mail. *Idaho Code* § 42-5218(2). The ballots must be mailed not later than 14 days prior to the election and be received by the secretary of the district by 8:00 p.m. on the date of the election.

When an Election is Not Required

If the deadline for nominations expires and it appears that only one qualified candidate has been nominated for each director's position to be filled, it is not necessary to hold an election. *Idaho Code* § 42-5219 (attached). The board must declare the candidate elected as a director within five (5) days after the expiration of the date for filing written nominations.

Notice of Election

If an election is to be held because there is a contest for any of the director positions, the secretary of the district may choose whether to give notice of the election by posting notice or by publication. *Idaho Code* § 42-5220 (attached). If the secretary chooses to give notice by posting, the notice of the election must be posted in five (5) public places in each county in which a part of the district is situated and in the office of the board of directors at least four (4) weeks before the day of such election. If the secretary of the district chooses to give notice by publication, then the notice must be published for four (4) successive weeks in a newspaper published in each of the counties or in a newspaper of general circulation.

The statutes do not directly address the question of whether notice must be given when the election is to be conducted by mail. To be safe, the district could post the notices, which may be less expensive. By statute, the notices are to contain the time of the election, the location of the polling places and the directors to be elected. Perhaps, the notice could state for location of polling place, "ballots will be mailed to members and are due back to the secretary of the district by 8:00 p.m. on _____, 199___."

Terms of Office

Following the election, the term of the directors shall be selected by lot. The statute provides for 1/3 of the directors to serve for one year, 1/3 for two years and the balance for three years. Then, as each of these directors' positions came up for election, their successors would hold office for a term of three years. *Idaho Code* § 42-5218.

(This form may be used to submit written nominations for the office of ground water district director. *Idaho Code* § 42-5218.)

BEFORE THE _____ GROUND WATER DISTRICT

In the Matter of the Election of Directors for the _____ Ground Water District _____	))))	NOMINATION FOR DIRECTOR OF THE _____ DIVISION OF THE _____ GROUND WATER DISTRICT

The undersigned Petitioners, who are ground water users and holders of ground water rights within the boundaries of the _____ Ground Water District, hereby nominate _____ _____ for Director of the _____ Division of the _____ Ground Water District. The nominee is a ground water user within the boundaries of the _____ Division.

DATED this _____ day of _____, 199___.

Signature	Printed Name	Address

Signature	Printed Name	Address

(This document provides information about actions required when the initial board of directors is replaced by directors with staggered terms. *Idaho Code* § 42-5218.)

Actions Required When Initial Board Is Replaced By Directors With Staggered Terms

One year following the organization of the Ground Water District, directors must be elected again, this time with staggered terms. *Idaho Code* § 42-5218. The election must be held on one of the four Tuesdays specified in the election statutes. One director for each division of the District is elected by the electors of the District at large. Every director must be a ground water user and a member of the District in the division of the director of whom he is to succeed in office.

Written nominations for the director candidates must be signed by at least six members in divisions having less than 100 members and by at least 12 members in divisions having more than 100 members. The nominations must be filed with the secretary of the District not less than 28 days and no more than 42 days before the election date. Although the statute does not require notification to members of the opportunity to submit written nominations, the District may wish to provide its members such notification. If, after the expiration date for filing written nominations, it appears that only one qualified candidate has been nominated for each position to be filled, it is not necessary to hold an election, and the Board of Directors declares such candidate elected as director within five days after expiration of the date for filing written nominations. *Idaho Code* § 42-5219.

The Board of Directors may provide that the election be conducted by mail as long as the ballots are mailed not later than 14 days prior to the election and received by the secretary of the District by 8:00 p.m. on the date of the election.

The term of office of the directors elected at the election one year following the organization of the District is determined as follows: One-third of the number of directors shall hold office for one year, one-third for the term of two years, and the balance for the term of three years. Questions arise when the number of directors is not evenly divisible by three. Presumably in this circumstance, any "extra" directors are considered part of the "balance" which get a term of three years. For example, in a seven-division District, two directors would get a term of one year, two directors would get a term of two years, and the remaining three directors would get a term of three years. This staggering of terms only needs to be done one time in a District since in subsequent elections, directors are elected to terms of three years to succeed those whose terms expire.

[This notice should be published for 4 consecutive weeks in a newspaper published in each county that is a part of the ground water district.]

LEGAL NOTICE
NOTICE OF ELECTION OF DIRECTORS

Pursuant to Idaho Code Section 42-5220, notice is hereby given to members of the _____ Ground Water District of the election of _____ **[number of directors that will be elected]** Directors for the District. **[List all other questions to be voted on.]** The election shall be held on _____, and votes may cast at the following locations:

[list of polling places]

Members may vote by mail so long as ballots are mailed no later than fourteen (14) days prior to the election and received by the Secretary of the district by 5:00 p.m. of the date of the election.

Sample

_____
_____, Secretary

[This notice should be sent to each member or director whenever a special meeting of the members or the Board of Directors is called. A notice of a special meeting of the members should be accompanied by a proxy.]

NOTICE

of the

Special [Member or Board] Meeting of the

_____ Ground Water District

Notice is hereby called by the requisite number of _____ and Notice is hereby given that a special meeting of the _____ Ground Water District shall be held at _____, on _____ at _____.m.

The purpose of this meeting is to _____
_____
_____
(List purpose of meeting.)

and transact such other business as may properly come before the meeting. To submit an item for the meeting agenda, a request to have such matter presented must be received by the secretary of the Board prior to the meeting's commencement.

[To be included for special meeting of members:

"A majority of Member votes (based on cfs) must be present at this meeting, either in person or by proxy, to constitute a quorum.

If you cannot attend this special member meeting, please complete the enclosed revocable proxy by designating the _____ Ground Water District Member who will have your proxy at the meeting. Either deliver the proxy to that person or mail it to the Secretary for receipt before the meeting date."]

DATED this ____ day of _____, _____.

_____
_____, Secretary

Sample

[This proxy form permits members of the ground water district to appoint representatives to attend meetings and vote for them. It should accompany every mailed notice of meeting.]

PROXY

for the

_____ (insert type of meeting: Special, Annual) Meeting of the

_____ Ground Water District

_____ (date and time of meeting)

[I/We], the undersigned, being a member(s) of the _____ Ground Water District, Division _____, do hereby appoint _____ as **[my/our]** true and lawful attorney-in-fact with power of substitution, for **[me/us]** and in **[my/our]** behalf to vote at the **[insert type of meeting]** meeting of the _____ Ground Water District identified above, with all the powers **[I/we]** would possess if personally present.

Sample

_____
Member(s) Name [please print]

_____
Member(s) Name [please print]

_____
Signature

_____
Signature

DATED this ____ day of _____, _____.

_____ Ground Water District
Annual Calendar

Any special Meetings need a 72 hour notice. (I.C. 42-5223)

January

From and after January 1st, of any year, unpaid assessments shall be liens against the land that is served by the water right. (I.C. 42-5240)

First Tuesday - Regular Meeting (I.C. 42-5223)

On or before January 15th Treasurer compiles list of delinquencies and file with county recorder; certified mail to delinquent members the notice of lien against their lands (I.C. 42-5242)

February

First Tuesday - Regular Meeting (I.C. 42-5223)

Second Tuesday - Publish Financial Statement (I.C. 42-5230)

March

First Tuesday - Regular Meeting (I.C. 42-5223)

April

First Tuesday - Regular Meeting (I.C. 42-5223)

Last Tuesday - Notice of Election at least four (4) weeks in advance by either publishing for four (4) weeks consecutively or posting in five public places (I.C. 42-5220); Appoint 3 election judges for each polling place, at least 10 days before election. (I.C. 42-5221)

No more than forty two (42) days prior to date of election - file petitions (I.C. 42-5218)

May

No less than twenty eight (28) days prior to date of election - file election petitions (I.C. 42-5218)

First Tuesday - Regular Meeting (I.C. 42-5223)

Forteen (14) days prior to election - all mailed ballots must be received (I.C. 42-5218)

Last Tuesday - Election of Directors (I.C. 42-5222)

First Monday following election - meet and canvas returns (I.C. 42-5222)

Elect Chair and Appoint Secretary and Treasurer. (I.C. 42-5223)

Designate District Office (I.C. 42-5223)

June

First Tuesday - Regular Meeting (I.C. 42-5223)

July

First Tuesday - Regular Meeting (I.C. 42-5223)

Third Tuesday - Certify License and Lands list to County Auditor(s) (I.C. 42-5241)

August

August 1st - deadline for preparation of assessment book (I.C. 42-5232)

First Tuesday - Regular Meeting (I.C. 42-5223)

Beginning of time period for determining Assessments (I.C. 42-5232)

September

First Tuesday - Regular Meeting (I.C. 42-5223)

October

First Tuesday - Regular Meeting (I.C. 42-5223)

November

November 1st - end of time period for determining assessments (I.C. 42-5232)

First Tuesday - Regular Meeting (I.C. 42-5223)

December

On or before December 1st - mail assessment notices and publish announcement in local papers that the district covers the date the assessments are to be paid by and also the place and time to make those payments (I.C. 42-5241)

First Tuesday - Regular Meeting (I.C. 42-5223)

On or before December 31st, assessments are due and payable (I.C. 42-5241)

[Bylaws are not required by statute. However, they may prove useful as they provide for the regulation and management of the Ground Water District. These Bylaws discuss: membership, meetings, elections, notices, committees, employees, assessments, dissolution. Some of the dates used herein for meetings and notice are established for practical reasons which may be unique to a particular district. However, certain dates and provisions are mandatory under the Ground Water District Statute. Consult the statutes before changing any provisions.]

BYLAWS

OF

GROUND WATER DISTRICT

Sample

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ARTICLE I. OFFICES

Section 1. Principal Office. The Principal office of _____ Ground Water District, an Idaho Ground Water District (the "District") established pursuant to the Idaho Ground Water District Act, *Idaho Code* §§ 42-5201 *et seq.* and any amendments thereto (the "Act") will be located at _____ _____. The District may have such other offices as the District Board of Directors ("Board") may designate or as the District business may require from time to time.

Section 2. Registered Office. The District's registered office will be located at _____, and may be changed from time to time by the Board.

ARTICLE II. MEMBERS

Section 3. Admission to Membership. The following are District members and subject to assessments, rights and responsibilities established by the District:

a) All ground water irrigators within the boundaries of the District;
b) All non-irrigators within the boundaries of the District who voted according to the notice as provided in *Idaho Code* § 42-5210(3);
c) A non-irrigator who provided written notice to the District within sixty days after formation of the District of his or her intent to become a member; and
d) Any person whose permit to appropriate ground water was acquired after the formation of the District, or who appropriates groundwater for uses not requiring a permit after the formation of the District but qualifies as a ground water user as provided in *Idaho Code* § 42-5201(10), and who is located within the boundaries of the District.

The following specifically are excluded as District members:

a) All persons who are not members of the District as provided in Article II Section 3 of these Bylaws;
b) All persons whose petition for exclusion from the District has been duly approved by the Board.

Section 4. Non-member Participation Solely for Mitigation Purposes. A non-member ground water user may petition the Board to enter into a contract with the Board to allow the non-member to participate in and obtain benefits of any mitigation plan, subject to the provisions of the Act. Hereinafter, a person whose petition is granted will be referred to as a "Mitigation Member." A Mitigation Member is ineligible to nominate Directors or otherwise participate in governance of the District, but may vote on District

Sample

indebtedness pursuant to *Idaho Code* § 42-5234.

Section 5. District Divisions and Voting. The District will be divided into **[between 3 and 7]** _____ divisions of approximately equal size, measured on the basis of the total quantity in cubic feet per second of rights to divert ground water contained in each. The Divisions will hereafter be known as the **[First, Second, Third, etc.]** Divisions and so on as appropriate, with the names of the Districts corresponding to their ordinal number. The boundaries of each Division are described in Attachment A hereto, and may be amended from time to time as deemed appropriate by the Board.

ARTICLE III. MEETINGS

Section 6. Organizational Meeting. Within thirty days of District approval from the county commissions in which District lands are located, the Board will hold an organizational meeting as required by the Act.

Section 7. Annual Meetings. An annual meeting of the members will be held on the first Tuesday following the first Monday in November (See Article IV) each year beginning in the year _____, with the exact time and place of the meeting to be established by the Board. The purpose of the annual meeting shall be to elect Directors to the Board and to transact such other business as may come before the meeting.

Section 8. Special Member Meetings. Special meetings of the members (member meetings other than the annual meeting) may be called by the Board or at the request of a majority of the members.

Section 9. Board Meetings. The Board will hold a regular monthly meeting in the District's office on the second Tuesday in every month or such other date each month as the Board will fix by resolution. The Board may call special Board meetings as may be required for the proper transaction of business. Special Board meetings may be called by the Chairman or any two Directors. The person or persons authorized to call special Board meetings will designate the place for holding any special Board meeting called by them.

Section 10. Budget Meetings. At the regular Board meeting in October, the Chairman and Treasurer shall present to the Board for approval a budget of operating and other expenses for the following year. The Board will vote upon the budget and establish assessments for the following year based thereon. The Board may change the date of the annual budget meeting provided it is held between August 1 and November 1 of each year.

Section 11. Open Meetings. All meetings will be conducted in open sessions, and in accordance with Idaho law governing open and public meetings, and access to public records (*Idaho Code* §§ 9-337 *et seq.* and §§ 67-2340 *et seq.*). However, the Board may hold closed meetings when the Board is discussing or acting upon strategy with respect to litigation, implementation of security systems, purchase of property, interviews

Sample

with prospective employees, and discussion of personnel matters. Additionally, any meeting may be closed by the Board at its discretion upon majority vote of the Board, duly noted in the meeting meetings.

Section 12. Action by Board Without a Meeting. Any action required or permitted to be taken at a Board meeting may be taken without a meeting if a written consent signed by all of the Board members setting forth the action so taken is duly executed. Such consent will have the same effect as a unanimous vote of the Board.

Section 13. Place of Meetings. The Board of Directors may designate any place within the State of Idaho, as the meeting place for any membership or Board meeting. If no designation is made, or if a special meeting is otherwise called, the place of meeting will be the principal office of the District.

Section 14. Officers of the Members' Meeting. The presiding officer at members' meetings, including annual meetings, will be the Chairman of the Board, or in the Chairman's absence, another Board member, or in the absence of both, a chairperson elected by those members present or voting by proxy at the meeting. The presiding officer at member meetings will appoint a person to act as secretary in the District Secretary's absence.

Sample

ARTICLE IV. ELECTIONS GENERALLY

Section 15. Conduct of Elections. Elections will be conducted in accordance with the general laws of Idaho; provided, no particular form of ballot will be required. However, each ballot must indicate the number of cubic feet per second (cfs) diverted within the District Boundaries held by the member casting the ballot, and the Division of the District in which the member resides or qualifies for membership in the District.

At least ten days prior to any election, the Board will appoint three electors to serve as judges of the election at the polling place(s) designated by the Board. Immediately after the election the judges will forward the official result to the Secretary.

On the First Monday after each election, or a time designated by the Board, the Board will meet and canvass the returns. The Board shall declare elected the person or persons having the highest number of votes.

Section 16. Dates of Elections. The annual election for Board member(s) will be held on the first Tuesday following the first Monday in November. Any other elections that may be required during the year will be set by the Board on one or more of the following dates:

a) The fourth Tuesday in May;
b) The first Tuesday in August; or

c) The first Tuesday in February.

Section 17. Voting Requirements. Each member, provided s/he is listed as a member, will be entitled to vote on each matter submitted to a vote of the members. Each member will have one vote for each cfs, or proportion thereof (rounded to the nearest one-tenth of a cfs) for which such member holds a ground water right whose point of diversion is within the District boundaries. Members may vote to elect Directors, approve District indebtedness, dissolve the District or upon other matters that the Board, in its discretion, presents to the members for a vote.

Section 18. Quorum. A majority of member votes (by cfs) represented in person or by proxy will constitute a quorum for the transaction of business. The concurrence of a majority of member votes (by cfs) in person or by proxy, on any matter presented to the membership for vote by the Board, is necessary to constitute the action of the Board.

Section 19. Proxies. Pursuant to § 42-5210, a member may vote either in person or by written proxy on a form provided by the District. No proxy will be valid after sixty days from the date of its execution. Every proxy will be revocable at the pleasure of the member who executed it.

Section 20. Voting by Mail. The Board may allow elections by mail as long as the ballots are mailed not later than fourteen days prior to the election and received by the District Secretary by 8:00 p.m. on the election date.

ARTICLE V. NOTICE

Section 21. Notice of Member Meetings. The minimum notice period required for all member meetings is at least five days prior to such meeting, and for all member meetings other than the annual meeting or other meeting at which elections will be held, notice may be provided by posting such the notice and meeting agenda in a prominent place at the District's principal office or at the building where the meeting is to be held. Three days notice of any special member meeting must be given by the person calling such meeting.

Section 22. Notice of Annual Meeting. Notice for the annual meeting, and any other meeting at which elections must be held, will be provided four weeks prior to such meeting, along with the election notice as provided in Section 23 of these Bylaws. Each annual meeting notice will contain an agenda, but agenda items may be added up to and including the time of the meeting. Notice for annual meetings will conform to the requirements for notice of elections in Section 25 hereof.

Section 23. Notice of Regular Board Meetings. Notice of regular monthly Board meetings that are scheduled in advance will be given by providing notice to District Members once a year of the regular meeting schedule. Such notice may be given by annually posting notice in the manner described above.

Section 24. Notice of Special Board Meetings. Notice of any special Board meeting will be given at least two days prior thereto by written notice delivered personally or sent by mail or facsimile to each Director at his or her address as shown by the District records. The attendance of a Director at any meeting will indicate that such Director received notice of such meeting. The purpose of any special Board meeting will be specified in the notice or waiver of notice of such meeting.

Section 25. Notice of Election. The District Secretary will give notice of all elections in the District by posting the same in five public places in each county in which a part of the District is situated and in the office of the Board at least four weeks before the day of such election, or by publication of the notice once a week for four successive weeks in a newspaper published or circulated in each county. Notices will state the time of the election, the location of polling places within the District and the Directors to be elected and/or other issues to be voted upon.

Section 26. Waiver of Notice. Whenever any notice is required to be given to any member under the provisions of the Act or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, will be deemed equivalent to the giving of such notice.

ARTICLE VI. DIRECTORS

Section 27. General Powers and Standard of Care. In addition to any other powers as may be prescribed by Idaho law and the Act, the Board has the power and duty to conduct, direct and manage the business and affairs of the District.

A Director will perform the duties of a Director, in good faith, in a manner such Director reasonably believes to be in the best interests of the District, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing such Director's duties, a Director will be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(a) One or more District officers or employees whom the Directors reasonably believe to be reliable and competent in the matters presented;

(b) Counsel, public accountants, or other persons as to matters which the Directors reasonably believe to be within such person's professional or expert competence; or

(c) A duly organized committee of the Board upon which such Director does not serve, as to matters within the committees' designated authority, and which committee the Director reasonably believes to merit confidence.

A Director who acts in reliance on any of the above will have no liability by reason of being or having been a Director of the District. However, a Director will not be considered to be acting in good faith if such Director has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

Section 28. Number, Tenure, Elections, and Qualifications. There will be _____ Directors, one from each Division of the District. Each Director must be a ground water user and member of the District who uses the majority of his/her water right on lands located within the Division from which he is to be elected. Each Director will be elected by the electors of the District at large.

The initial Board will determine by lot the initial term of each Director so that one-third (1/3) of the Board will have one-year terms, one-third (1/3) will have two-year terms, and one-third (1/3) will have three-year terms.

Thereafter, Directors will be elected, for staggered three-year terms. Each Director will hold office until the end of the term or until a successor will be qualified and elected.

Directors will be elected to fill vacancies resulting from normal expiration of a Director's term when necessary at the annual meeting of the membership by a majority vote.

Written nominations for the office of Director must be signed by at least **[six members for districts with less than 100 members and twelve members for districts with more than 100 members]** members from the District for a Director to be nominated. Nominations must be filed with the Secretary not less than twenty-eight nor more than forty-two days before the date of the election.

Section 29. No Election Needed. If after expiration of the date for filing nominations for Directors, only one qualified Director candidate for any Division has been nominated, an election will not be required. In such event, the Board will, within five days after the close of the time for filing nominations, declare such candidate elected as Director.

Section 30. Vacancies. In case of a vacancy in the office of Director occurring other than by the expiration of a term, the remaining members of the Board will fill such vacancy by appointing a ground water user who is a member of the Division in which there is a vacancy, and a member of the District or a representative thereof, possessing full voting qualifications. The appointed Director will serve the remainder of the office that has become vacant.

Section 31. Quorum of the Board. A majority of the Board will constitute a quorum for the transaction of business at any meeting of the Board, but if fewer than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting without further notice. Once a quorum is established, it will

Sample

remain for the duration of the meeting.

Section 32. Manner of Acting. The act of the majority of the Directors present at a meeting at which a quorum is present will be the act of the Board, unless otherwise provided by law or by these Bylaws. All actions by the Board will be by majority vote of the Board members with each Director having one vote.

Section 33. Compensation. The Board will fix the compensation Directors will receive for each day spent attending District meetings, or while engaged in official business under the order of the Board, together with documented, actual and necessary expenses. The term "actual and necessary expenses" will include all traveling and lodging expenses necessarily incurred by any Director when absent from his residence in the performance of the duties of his office. The Board also will fix the compensation, for documented, actual and necessary expenses, to be paid to the other officers of the District.

Section 34. Director Conflicts of Interest. No Director or any other officer of the District will in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the Board, or in the profits to be derived therefrom.

ARTICLE VII. OFFICERS

Section 35. Number and Title. The Board annually will elect a chairman from their number and will appoint a secretary and a treasurer to hold office at the pleasure of the Board. The offices of Secretary and Treasurer may, but are not required to be, held by the same person.

Section 36. Vacancies. Vacancies in any office may be filled or a new office created and filled at any Board meeting.

Section 37. Removal. Any officer elected or appointed by the Board may be removed by an affirmative majority vote of the Board whenever, in its judgment, the best interest of the District would be served thereby.

Section 38. Chairman. The Chairman will preside at all meetings of the Board and the general membership. S/he may sign with the Secretary, or any other proper District officer authorized by the Board, any deed, mortgage, bond, contract, or other instrument which the Board has authorized to be executed, except in cases where the signing and execution thereof will be expressly delegated to some other District officer or agent. In general, s/he will perform all duties incident to the office of Chairman and such other duties which will be prescribed by the Board from time to time.

Section 39. Secretary. The Secretary will keep the permanent Board meeting minutes in one or more books provided for that purpose; see that all notices are duly given in accordance with these Bylaws, or as required by law; be custodian of the District records and seal; keep a register of the name and post office address of each District member, and

in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board.

The Secretary also will maintain the assessment book, as provided for in Article X of these Bylaws, containing a full and accurate list of all lands within the District that are subject to assessment, and any increase or decrease in the amount of water (measured by cfs) appurtenant to District lands.

Section 40. Treasurer. The Treasurer will have charge and custody of and be responsible for all District funds and securities. The Treasurer will be responsible for providing the counties with the information necessary to issue the assessment; keeping records of all delinquent assessments and cause the same to be recorded in the District assessment book on or before January 15 each year; recording a delinquent assessment list in each county in which the District is located before the third Tuesday of July; and providing certified notice to each member on the delinquent assessment list of the delinquency.

The Treasurer will assure that the bookkeeper receives and gives receipts for money due and payable to the District from any source whatsoever and deposits all monies in the name of the District in such bank or other financial institution as will be selected by the Board, and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board.

The Treasurer and Chairman, with the appropriate standing committee, will prepare an annual operating budget showing income and expenses to be presented to the Board for approval at the annual Board budget meeting in October.

ARTICLE VIII. COMMITTEES

Section 41. Other Standing Committees. The Board may establish such additional committees as are necessary and appropriate to carry out the business of the District. Committees designated by the Board may be composed entirely of officers, entirely of members of the Board, or may include District members. Each committee will have the duties, responsibilities, authority, and composition as stated in writing and adopted by Board resolution.

Section 42. Appointment. The chairperson of each standing committee will be appointed by the Chairman of the Board in consultation with the Board.

Committee members will be appointed by the chairperson of each committee in consultation with the Chairman of the Board.

Section 43. Term of Office. All committee members will serve at the Board's pleasure or until their successors have been appointed.

Section 44. Reports. Each committee member will submit activity reports, as requested, to the Board.

ARTICLE IX. EMPLOYEES

Section 45. Employees. The Board will authorize the employment of employees as are needed to carry out the District's purposes. The salary or wages and other employment terms will be set by the Board who may enter into employment contracts with such employees on the District's behalf.

ARTICLE X. ASSESSMENTS

Section 46. Assessor. The Secretary will be the District's assessor and will prepare an assessment book on or before August 1, of each year. The book will contain a full and accurate list of all lands within the District subject to assessment.

Section 47. Purpose of Assessments. Assessments may be collected for the following purposes:

a) Repayment of indebtedness of the District;
b) Mitigation expenses;
c) Other operating and necessary business expenses;

Between August 1 and November 1 each year, the Board, at a regular meeting, and upon approving an annual budget, will determine the amount necessary to be raised to cover the above expenses of the District, and establish assessments based thereon.

Money received in payment of assessments for annual debt service of the District will be deposited in a separate fund to be known as the Debt Retirement Fund. Money received for assessments for developing, operating or maintaining any mitigation plan established by the District will be deposited into a separate fund known as the Mitigation Expense Fund. Money received for assessments for maintenance and operation of the District not related to mitigation plans or debt retirement purposes will be deposited into a separate fund known as the Operating Expense Fund.

Section 48. Amount of Assessment. Each member will pay a proportionate share of the total of all amounts to be assessed for the above-stated purposes. A member's share will be based on the ratio which the quantity of water the member is authorized to appropriate under the member's ground water rights bears to the total quantity of water authorized for appropriation under the ground water rights of all members in the District. Provided that the Board will be entitled to levy assessments that adjust a member's proportionate share to take into consideration priority dates, consumptive use under the member's respective ground water rights, other attributes of the ground water right(s) appurtenant to the assessed lands, and or the benefits the member derives from a mitigation plan or other District activity.

Example

Mitigation Members will not be subject to assessment beyond their proportional share of the costs, including administrative costs and other reasonable expenses, of any mitigation plan or actions or activities in furtherance of the District's mitigation plans or purposes.

Section 49. Collection of Assessments. The District may collect assessments from its members in any manner provided for in the Act.

Section 50. Lien of Assessment. All assessments will be liens against the land of the members to which the water rights are appurtenant, unless paid by January 1 of each year. Such liens will not be removed until the assessments are paid or the property is sold for the payment thereof.

Section 51. Prohibition Against Participation. A ground water user who is delinquent in the payment of any assessment may not participate in any mitigation plan until such delinquent assessment is paid in full.

ARTICLE XI. DISSOLUTION

Section 52. Petition for Dissolution of District. A majority of members entitled and qualified to vote in District elections may petition the Board to call a special election to submit a proposal to vote on District dissolution. The petition will be in the form required by the Act.

Section 53. Call for Election. The Board, if it approves the dissolution petition, will call an election to submit the proposal for District dissolution to the qualified electors.

Section 54. Election. Each member qualified to vote in the election will cast a number of votes in proportion to that user's cfs of ground water rights. The ballots will contain the following language "For Dissolution -- Yes" and "For Dissolution -- No." On the first Monday after any dissolution election the Board will meet to canvass the returns, declare the result, and the Secretary will make full entry of the record.

Section 55. Confirmation of Dissolution by District Court. If the District members elect to dissolve the District, the Board will file in the district court of the county in which the District's office is situated a petition requesting the dissolution be examined, approved and confirmed by the court in accordance with the terms of the Act.

Section 56. Dissolution without Election. The District may be dissolved without an election if members holding and owning fifty percent or more of all the ground water rights within the District (measured on the basis of cfs) successfully file a complaint or petition in the district court of the county in which the District's office is situated, requesting dissolution in conformance with the Act, and thereafter obtain a court judgment or other order authorizing such dissolution.

Sample

ARTICLE XII. MISCELLANEOUS

Section 57. Indemnification. The District will have the power to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding whether civil, criminal, administrative or investigative by reason of the fact s/he is or was a Director, officer, employee or agent of the District, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him/her in connection with such proceeding.

Section 58. Depositories. All District funds not otherwise employed will be deposited from time to time to the credit of the District in such banks, savings and loan associations, trust companies, or other depositories as the Board may elect, and pursuant to these Bylaws.

Section 59. Checks, Drafts, Etc. All checks, drafts, or orders for the payment of money, notes, or other evidence of indebtedness issued in the District's name will be signed by such persons and in such manner as will from time to time be determined by Board resolution. Absent such determination, such instrument will be signed by the Treasurer.

Section 60. Fiscal Year. The District's fiscal year will end on December 31st of each year.

Section 61. Investment. Any District funds which are not needed currently for the District activities may, at the discretion of the Board, be invested for the benefit of the District.

Section 62. Audits. The District's financial books and records shall be audited by a public accountant, and reports of audit shall be filed by the Secretary with the Idaho State Controller as required by Idaho statute.

Section 63. Books and Records. The District will keep correct and complete books and records of accounts and also will keep minutes of the proceedings of its members, Board and committees, and will keep a record giving the name and address of the members entitled to vote. All books and records of the District may be inspected by any member or his agent or attorney or the general public for any proper purpose at any reasonable time, and in conformance with Idaho law regarding public records.

In addition, any member of the county commission, when acting under resolution of the commissioners, will have access to all books, records and vouchers of the District which are in possession or control of the Board or District Secretary.

Sample

Section 64. Statement of Financial Condition. On or before the second Tuesday of February of each year, the Board will publish in at least one issue of a newspaper published in each of the counties in which the District is situated, a full, true and correct statement of the financial condition of the District, as of the end of the last preceding fiscal year. The financial statement will include all District income and expenses and liabilities and assets in a form prescribed by the controller of the State of Idaho.

Section 65. Report to Idaho Department of Water Resources. The Board will make a report to the Department, at least once a year, as required by the Act, and any such other reports as the Department may require.

Section 66. Nondiscrimination and Compliance with Laws. This District is an equal opportunity employer and will conduct its business, and make available its services in compliance with Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and all related regulations and other applicable laws, to ensure that the District does not unlawfully discriminate against any member, employee or other party in violation of such laws on the basis of race, color, sex, creed, national origin, age or handicap, under any program or activity of the District.

Section 67. Political Activity. The District will not, in any way, use District funds in the furtherance of, nor engage in, any political activity for or against any candidate for public office. However, this section will not be construed to limit the right of any official or member of the District to appear before any legislative committee on behalf of the District and to testify as to any matters involving or affecting the District, or to serve in public office.

Section 68. Gifts. The Board may accept, on the District's behalf, any contribution, gift, bequest, or devise for the general purposes or for any special purposes of the District.

Section 69. Bonds. The Board will require the Treasurer, and in its discretion any other officer or employee of the District, to give a bond for the faithful discharge of his/her duties. The bond required of the Treasurer will be in an amount to be determined by the Board, provided that such bond shall be maintained for not less than five thousand dollars ($5,000) or fifty percent the maximum probable amount of money to be in the Treasurer's hands at any one time, whichever is greater. The District will pay the premiums required for such bonds.

Section 70. Parliamentary Procedure. All Board and membership meetings will be governed by Roberts' Rules of Order (Current Edition), unless contrary procedure is established by these Bylaws, or by Board resolution.

Sample

Section 71. Compliance with Laws and Standards. The District will render services hereunder in a legitimate and proper manner, consistent with applicable federal and state laws, rules and regulations and the applicable standard of care. Notwithstanding the foregoing, nothing herein will be interpreted to create a higher or different standard of care than the applicable standard of care which would otherwise exist, in the absence of these Bylaws.

ARTICLE XIII. AMENDMENTS

These Bylaws may be altered, amended, or repealed and a new set of Bylaws adopted by a majority vote of the Board.

Sample

SECRETARY'S CERTIFICATION

This is to certify that the foregoing Bylaws of _____ Ground Water District have been duly adopted by the Board at a meeting held on the ___ day of January, 1997.

_____

_____, Secretary

Official Seal

Date Signed: _____

Sample

ATTACHMENT A
Boundaries of the Divisions

Sample

[(This form may be used to request annexation of lands into a ground water district. It should be acknowledged by the petitioner before a notary.]

PETITION FOR ANNEXATION OF LANDS INTO THE _____ GROUND WATER DISTRICT

This Petition for Annexation of lands into the _____ Ground Water District (the "District"), _____ Division is brought by _____ **[name of petitioner]** on this ____ day of _____, _____.

_____ (the "Petitioner") hereby requests that the Board of Directors of the District annex the following lands and/or facilities listed under the Petitioner's ground water right(s) into the District:

[insert legal description of land to be annexed]

[I/We], _____, hereby affirm under oath that I/we hold title to the lands requested to be annexed by this petition.

_____
Petitioner

_____
Petitioner

Sample

[Appropriate notary should be attached.]

[This form is to be used when a member of a ground water district has submitted a complete petition for exclusion. No hearing is required for exclusion. An order for exclusion should be recorded in every county in which the ground water district is located.]

ORDER OF THE BOARD OF DIRECTORS OF THE _____ GROUND WATER DISTRICT
ON _____ [name of petitioner(s)]
PETITION FOR EXCLUSION

The Board of Directors of the _____ Ground Water District (the "District"), Division _____ received from _____ **[name of petitioner(s)]** a petition for exclusion of the following lands from the District:

[insert legal description of the land(s) proposed to be annexed]

The petition, being properly completed, is hereby accepted by the Board. Therefore, it is hereby ordered:

[If the petition was for exclusion for all purposes: "The above referenced lands are hereby excluded from the District for all purposes, and such lands shall not be entitled to receive any benefits from the District."]

[If the petition was for exclusion for all purposes other than mitigation: "The above referenced lands shall continue to be a part of the District for mitigation purposes only, and shall be assessed for these purposes."]

DATED this ____ day of _____, _____.

(Seal)

_____, Director
(name)

_____, Director
(name)

_____, Director
(name)

Certified: _____

_____, Chairman

Attest: _____
_____, Secretary

Sample

[This notice must be published for 4 successive weeks, before the hearing on the petition is schedule, in a newspaper that is published in each county in which the ground water district is located.]

LEGAL NOTICE
NOTICE OF FILING OF PETITION FOR ANNEXATION

Pursuant to Idaho Code Section 42-5246, notice is hereby given that _____ **[name of petitioner(s)]** has filed a petition for annexation of the following land(s) into the _____ Ground Water District (the "District"), _____ Division:

[insert legal description of the land(s) requested to be annexed.]

Persons interested in or that may be affected by the requested annexation may appear at the office of the Board of Directors of the District, located at _____ _____ on _____ _____, _____ at _____ ____.m. for the hearing on the petition, or may write to the Board to show cause as to why the lands should not be annexed into the District. Any such written statement submitted to the Board shall be made before a notary public and must be received by the Board prior to the date shown above.

Sample

_____
_____, Secretary

[This form may be used to request exclusion of lands from a ground water district. It should be acknowledged by the petitioner before a notary.]

PETITION FOR EXCLUSION OF LAND [FOR ALL PURPOSES/FOR ALL PURPOSES OTHER THAN MITIGATION] FROM THE _____ GROUND WATER DISTRICT

This Petition for Exclusion of lands from the _____ Ground Water District (the "District"), Division _____ is brought by _____ **[name of petitioner]** on this _____ day of _____, _____.

_____ (the "Petitioner") hereby requests that the Board of Directors of the District exclude the following lands and/or facilities listed under the Petitioner's ground water right(s) from the District:

[insert legal description of land to be annexed]

[I/We], _____, hereby represent that **[no mortgagee or other person holds a lien of record for which lienholder's consent is required for this petition of exclusion/all lien holders whose consents to this petition for exclusion are required have so consented.]**

[If the exclusion is for all purposes:

"I/We hereby agree to waive and relinquish all right to rely upon or be covered by any program, plan, activity or benefits of any kind provided by or through the District."]

[If the exclusion is for all purposes other than mitigation:

"[I/We] hereby agree to waive all right to vote or participate in the governance of the District, including, without limitation, the right to nominate directors or serve as the director of the District. [I/We] further agree that [I/we] will remain fully subject to all District assessments, but will not be entitled to receive any benefits from the District other than those relating to mitigation."]

[I/We] agree that I/we remain fully liable for any past due assessments, all assessments levied before the exclusion sought in this petition occurs, and all other financial indebtedness that District members may have incurred before the exclusion sought in this petition occurs.

[I/We] agree to bear the costs to exclude such lands incurred by the district, except as otherwise provided in Idaho Code § 42-5254.

_____
Petitioner

_____
Petitioner

[Appropriate notary should be attached.]

Sample

(This letter may be used to petition to exclude a ground water district from a water measurement district pursuant to *Idaho Code* § 42-706.)

date

Karl J. Dreher, Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706-2237

Re: _____ Ground Water District
Petition to be Excluded from the_____ Water Measurement District

Dear Director Dreher:

The _____ Ground Water District ("District") is a ground water district duly organized under Chap. 52, Title 42, *Idaho Code*. Pursuant to *Idaho Code* § 42-706, the District petitions to be excluded from the _____ Water Measurement District. The Idaho Department of Water Resources ("IDWR") created the _____ Water Measurement District in _____ 199___.

The ground water users within the District already have been under an order from IDWR to record and report their ground water diversions during the 199___ and 199___ irrigation seasons. Pursuant to *Idaho Code* § 42-706, the District intends to use the contract services of _____ of _____, Idaho, to continue and complete the well inventory and testing begun by IDWR during 199___ and 199___. The proposed well inventory and testing time table, dated _____, 199___, is attached.

IDWR and District expect the District measurement program will successfully comply with the measurement requirements set forth in *Idaho Code* § 42-708. Two key components of a successful measurement program are the funding of the measurement program and the enforcement of the measurement program. The substance of the discussions and understanding between IDWR and the District are memorialized in this petition.

[This form should be used to certify a ground water district's assessment rolls where the district has elected to have assessments made by the county and the county has approved. Assessment rolls must be certified and submitted annually to the assessor of each county in which the district is located by the 3rd Tuesday of July.]

CERTIFICATION
OF DISTRICT ASSESSMENT ROLL

I hereby certify that the list attached hereto has been prepared by me, and accurately reflects the legal description, assessor's parcel number, and name and last known address of the owner of record, for each parcel of land located within _____ County, Idaho and included within the boundaries of the _____ Ground Water District, as reflected by the records and rolls of the _____ County Assessor, together with the amount of assessment and charge against each such parcel.

[It is recommended that the certification also specifically identify those lands which have been excluded or annexed since the filing of the previous assessment roll.]

Sample

(OFFICIAL SEAL)

_____, Treasurer
(name)

_____ Ground Water District

(This form may be used to contract with an independent contractor for measurement services. *Idaho Code* § 42-5224(3) & (4).)

AGREEMENT FOR SERVICE OF INDEPENDENT CONTRACTOR

This Agreement is made on this _____ day of _____, 199___, by and between the _____ Ground Water District , a governmental entity of the State of Idaho formed pursuant to Chapter 52 of Title 42, *Idaho Code*, herein "DISTRICT," and _____, herein "CONTRACTOR."

THE PARTIES AGREE AS FOLLOWS:

1. **CONTRACT**. DISTRICT hereby employs CONTRACTOR as an independent contractor to conduct a well inventory and testing program within the boundaries of DISTRICT located in _____, _____, and _____ Counties (the "Project"). CONTRACTOR agrees to provide all materials and services for the Project in accordance with the Measurement Plan, attached hereto as Exhibit A and incorporated herein as if set forth in full. During the term of this Agreement, Contractor shall undertake to perform the tasks designated for 199____ in the Measurement Plan's anticipated timetable. Due to the limit on compensation in Section 3 of this Agreement, Contractor may need to cease work prior to completing all of the tasks designated on the 199___ Measurement Plan's anticipated timetable.

2. **TIME OF PERFORMANCE AND TERMINATION**. The parties agree that CONTRACTOR shall commence work on the Project by _____, 199___, and complete the Project by _____, 199___. CONTRACTOR and DISTRICT agree that this Agreement may be terminated without cause by either party after sixty (60) days' prior written notice. This Agreement automatically shall terminate on _____, 199___ if not previously terminated by a party.

3. **COMPENSATION**. CONTRACTOR shall be compensated for completing the inventory procedure as defined in the Measurement Plan _____ _____ DOLLARS ($_____.00) for each well inventoried and shall be compensated for completing the testing procedure as defined in the Measurement Plan _____ DOLLARS ($_____.00) for each well tested. After the inventory and testing procedures are completed for a well, CONTRACTOR shall be compensated _____ DOLLARS

($_____.00) per trip for visits to the well site for additional water level measurements as requested by the Idaho Department of Water Resources or DISTRICT and for additional trips required to calibrate dysfunctional or improperly installed flow meters as requested by the Idaho Department of Water Resources or DISTRICT. CONTRACTOR's total compensation under this Agreement will be limited to _____ DOLLARS ($_____.00). Therefore, CONTRACTOR shall cease work upon having performed a total of $_____ in compensable services under this Agreement.

CONTRACTOR shall submit monthly billings covering completed work and detailing the services performed and dates of performance to DISTRICT at the regular monthly meetings of DISTRICT's board of directors. DISTRICT shall remit the proper compensation to CONTRACTOR within thirty (30) days of receipt of a billing.

4. **INDEPENDENT CONTRACTOR**. The parties agree that CONTRACTOR is the independent contractor of DISTRICT and is in no way an employee or agent of DISTRICT and is not entitled to workers' compensation or any benefits of employment with DISTRICT. CONTRACTOR understands that CONTRACTOR is responsible to pay and/or withhold, according to law, all applicable taxes including, without limitation, income taxes, payroll taxes, and social security taxes. DISTRICT is not responsible for withholding, and shall not withhold, taxes of any kind from any payments which it owes CONTRACTOR. DISTRICT shall have no control over the performance of this Agreement by CONTRACTOR or its employees, except to specify the time and place of performance. DISTRICT shall have no responsibility for security or protection of CONTRACTOR'S supplies or equipment.

5. **WARRANTY**. CONTRACTOR warrants that all materials and goods supplied under this Agreement shall be of good merchantable quality and that all services will be performed in a good workmanlike manner. CONTRACTOR acknowledges that it will be liable for any breach of this warranty.

6. **INDEMNIFICATION**. CONTRACTOR agrees to indemnify and hold DISTRICT, and its officers, agents, and employees harmless from and against any liabilities, claims, demands, suits, losses, fines, judgments, or damages, including costs and attorney fees, arising out of or in any way connected with CONTRACTOR'S performance of the work described in this Agreement.

7. **INSURANCE**. During the term of this Agreement, CONTRACTOR agrees to maintain general liability insurance in the amount of $_____ per occurrence for bodily injury; $_____ per occurrence for property damage;

and with a $_____ limit in the aggregate for bodily injury and property damage per year. Such general liability insurance shall name DISTRICT as an additional insured. CONTRACTOR also shall maintain workers' compensation insurance as required by law with an insurance carrier licensed to do business in the State of Idaho. CONTRACTOR shall furnish proof of insurance to DISTRICT prior to commencing work under this Agreement.

8. **COMPLIANCE WITH LAWS**. CONTRACTOR agrees to comply with all applicable federal, state, city and local laws, rules and regulations. In particular, the laws of the State of Idaho relating to the measurement of ground water will apply at all times to this contract.

9. **ATTORNEY FEES**. Reasonable attorney fees shall be awarded to the prevailing party in any action to enforce this Agreement or to declare forfeiture or termination of this Agreement.

10. **COMPLETE AGREEMENT**. This Agreement is the complete agreement of the parties.

11. **AMENDMENTS**. This Agreement may not amended other than by a signed written agreement of both parties.

12. **NOTICES**. Any notice given in connection with this Agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the address indicated below. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

DISTRICT: _____
_____ Ground Water District
_____
_____, Idaho _____
Phone: (208) _____

CONTRACTOR: _____
_____
_____
_____
Phone: (_____) _____

13. **INTERPRETATION.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Idaho.

14. **CAPTIONS.** The captions in this Agreement are for the convenience of the parties in the identification of the several provisions, and shall not constitute a part of this Agreement or be considered interpretive.

15. **NO THIRD PARTY BENEFICIARIES.** This Agreement is entered into in consideration of the respective covenants, promises, and obligations contained herein, and is for the sole benefit of the parties, and may be enforced only by them.

16. **ASSIGNABILITY.** The CONTRACTOR may not assign any of its rights or duties under this Agreement without the prior written consent of DISTRICT.

17. **SEVERABILITY.** If any part of this Agreement is held unenforceable, the rest of this Agreement will nevertheless remain in full force and effect.

18. **NON-WAIVER.** The failure of either party to exercise any of its rights under this Agreement for breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.

_____ GROUND WATER DISTRICT

By _____
Name: _____
Its: _____

CONTRACTOR: _____

By _____
Name: _____
Its: _____

TECHNICAL SERVICE AGREEMENT

THIS AGREEMENT is made and entered into as of the _____day of _____, _____, by and between:

_____
_____
_____
_____

hereinafter called "Owner," and

_____
_____
_____
_____

hereinafter called "Contractor". Owner and Contractor may also be referred to in this Agreement individually as "Party" or collectively as the "Parties".

IN CONSIDERATION of the mutual promises and covenants herein contained, and for other good and valuable consideration , the Parties agree as follows:

AGREEMENTS

1. Scope of Services. The services to be provided by Contractor to Owner ("Project Services") are specified in Exhibit 1, attached hereto.

2. Compensation and Payment. For providing the Project Services Contractor shall be paid by Owner, in the amounts, manner, and at the times set out in Exhibit 2, attached hereto.

3. Right To Audit. During the period of this Agreement, Contractor will maintain books, accounts and supporting documentation as necessary to verify the correctness of any charges made to Owner. Such books and accounts will be maintained in accordance with generally accepted accounting principles and practices. Owner shall have access to these books and accounts during normal business hours for a period of three (3) years after completion of the Project Services. Contractor shall include provisions in its contracts with its subcontractors providing Owner with the same rights to audit the books and records of such subcontractors as are contained herein.

4. Responsibility of Contractor. Contractor is an independent contractor, and Contractor's employees shall not be deemed to be employed by Owner. Owner is contracting with Contractor for providing of the Project Services, and Contractor

reserves the right to determine the method, manner, and means by which the Project Services shall be performed. Owner acknoledges that Contractor has other clients and Contrctor offers services similar to the Project Services to the general public. The order of sequence in which the project services are to be performed shall be determined by Contractor in consultation with the Owner.

5. Warranty and Limitation of Liability. Contractor warrants to Owner that the Project Services provided hereunder will be as specified in Exhibit 1 and will be performed by qualified personnel.

CONTRACTOR MAKES NO OTHER WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.

In no event shall Contractor be liable to Owner for special or consequential damages, including lost profits, either in contract or in tort, whether or not the possibility of such damages has been disclosed to Contractor in advance, or could have been reasonable foreseen by Contractor.

6. Indemnification. Each Party agrees to protect, defend, indemnify and hold harmless the other Party, its officers, directors, and employees against and from any and all liability, suits, loss, damage, claims, actions, costs, and expenses of any nature, including court costs and attorney's fees, even if such suits or claims are completely groundless, as a result of injury to or death of any person or destruction, loss or damage to property arising in any way in connection with, or related to, this Agreement, but only to the extent such injury to or death of any person or destruction, loss or damage to property is not due to the negligence or other breach of legal duty of such other Party; provided, however, that each Party shall be solely responsible for claims of and payment to its employees for injuries occuring in connection with their employment or arising out of any workman's compensation law.

7. Ownership of Documents. All documents, including interim and final reports, original drawings, estimates, specifications, field notes and all other data developed by Contractor as part of the Project Services, shall be supplied to, and be the property of, the Owner. Such documents may be used by Owner for extensions of the project or for new projects without Contractor's permission. The Contractor will not be held responsible for the Owner's improper reuse of the documents.

8. Proprietary Information. Owner and Contractor shall exchange such technical data and other information as is reasonably necessary for each to perform its respective obligations hereunder.

Any information furnished by either Party ("Disclosing Party") to the other Party ("Receiving Party"), either written or oral, shall be identified as containing or not containing proprietary information. Any information other than that identified as proprietary information shall not be restricted as to use by the Receiving Party. The Receiving Party shall, at all times during the performance of this Agreement and continuously thereafter, keep confidential all such proprietary information supplied or

communicated to it. The Receiving Party shall use the same degree of care to avoid disclosure or use of the proprietary information as the Receiving Party employs with respect to its own proprietary information of like importance, and represents that it has adequate procedures to protect the secrecy of such proprietary information. Upon termination of this Agreement, proprietary information and any copies thereof shall be promptly returned to the Disclosing Party, or destroyed at the election of the Disclosing Party.

Neither the Owner nor the Contractor shall disclose proprietary information to third Parties except as may be necessary in connection with the services provided hereunder, and in any event shall take reasonable steps to protect the secrecy and confidentiality of the proprietary information. Disclosures may be made internally to the employees of either Party on a "need to know" basis.

Contractor shall note make any written or verbal statements to any press or news media, including statements made for advertising purposes concerning the project work, without the prior written authorization of the Owner.

9. Responsibility of Owner. Owner will designate a representative to review and accept documents submitted by Contractor and represent Owner in all matters associated with this Agreement. The representative shall be empowered to render decisions and provide information in a timely manner that will not delay the orderly progress of the work. Contractor is entitled to rely upon the information and decisions furnished by the Owner's representative. Owner's acceptance of documents hereunder shall not be deemed to relieve the Contractor of its professional responsibility for the technical adequacy of its work.

10. Insurance Agreement and Certificate. The Contractor shall procure and maintain, during the entire term of the Agreement, the types of insurance with limits and coverages at least as broad as those specified in Exhibit 3 attached hereto.

11. Termination and Assignment. If Owner finds the Contractor in default of providing said services 1-6 described in Exhibit 1 (attached), the Owner may, at its option, terminate the Agreement, in whole or in part, at any time by delivering written notice of termination to Contractor. Upon any such termination, Contractor shall waive any claims for damages, including loss of anticipated profits on account thereof, but as the sole right and remedy of Contractor, Owner shall pay Contractor in accordance with Section B below; provided, however, that those provisions of the Agreement which by their nature survive final acceptance under the Agreement shall remain in full force and effect after such termination to the extent provided in such provisions.

A. Upon receipt of any such notice, Contractor shall, unless the notice requires otherwise:

1. Immediately discontinue work on the date and to the extentspecified in the notice;
2. Place no further orders or subcontracts for materials, services or facilities, other than as may be necessary or required for completion of such portion of work under the Agreement

that is not terminate;

3. Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to Owner of all orders and subcontracts to the extent they relate to the performance of work terminated or assigned to Owner those orders and subcontacts and revoke agreements specified in such notice;

4. Assist Owner, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by Owner under the Agreement.

B. Upon any such termination, Owner will pay Contractor an amount determined in accordance with the following (without duplication of any item):

1. All amounts due and not previously paid to Contractor for Project Services completed in accordance with the Agreement prior to such notice and for work thereafter completed as specified in such notice;

2. The Cost of settling an paying claims arising out of the termination of work under subcontracts or orders as provided in Subsection A-3 above;

3. The reasonable costs incurred pursuant to Subsection A-4 above;

a. Any other reasonable costs incidental to such termination of Project Services.

The foregoing amounts shall include a reasonable sum, under all of the circumstances, as profit for all work satisfacotrily performed by Contractor.

Contractor may terminate this Agreement in the event of non-payment of costs and fees as specified herein.

12. Assignment. Neither this Agreement nor perfomance of any of the Project Services shall be subcontracted or assigned by either Party without the prior written approval of the other.

13. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho and Venue for any litigation relating to this Agreement shall be in the District Court of the Sate of Idaho of Power County of the U. S. District Court of the District of Idaho.

14. Modification. This Agreement may not be modified except by a writing duly signed by both the Parties hereto.

15. Notices. All notices required or permitted to be given under this Agreement shall be sent to the other Party by certified mail to the addressee and at the address shown below:

OWNER:	CONTRACTOR:
_____	_____
_____	_____
_____	_____

16. Complete Agreement. This Agreement contains the entire Agreement between the Parties with respect to the matters covered herein. No other agreements, representations, or warranties, oral or written, purportedly agreed to by either Party, shall be deemed to be binding with respect to the subject matter hereof.

17. Enforceability. Should any provision of this Agreement be held to be invalid or other unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the day and year first hereinabove written.

OWNER:	CONTRACTOR:
(District Name).	(contractors name).
By_____	By_____
Its_____	Its_____

TECHNICAL SERVICE AGREEMENT

EXHIBIT 1

Scope of Services

During the 199__, 199__, and 199__ irrigation seasons, (contractor) will provide technical water measuring services to the (ground water district) to allow the District to estimate the amount of its diversions of ground water to comply with IDWR requirments ("Project Services").

In order to provide the technical services, District and (contractor) will each provide the following:

TO BE PROVIDED BY DISTRICT

District will provide (contractor) with access to all information in its possession relating to locations of wells to be tested under this Agreement. District will also provide (contractor) with such additional information as (contractor)

might reasonably request in order to efficientely provide the Project Services. Such information would include, but not be limited to, the names, adresses, and telephone numbers of individual well owners whoese wells will be tested as a part of the Project Services. District will use its best efforts to advise and encourage individual well owners to cooperate with (contractor) personnel to allow (contractor) to perform the Project Services inan expeditious manner.

(CONTRACTOR) WILL PROVIDE THE FOLLOWING SERVICES:

(contractor) will make appointments with well owners to meet the well owner at the well site to perform one of the two following tests:

Flow measuring device test. Where a permanent flow measuring device has been installed on a well, (contractor) will install a calibrated portable flow meter and compare the measured flow readings from the permanent measuring device with the readings from the portable flow meter. (contractor) will record the difference between the two readings, and any difference between the measurements will be included in (contractors) reports to the District, together with recommendations as to how the Owner could improve the accuracy of the permanent meter, as appropriate.

Power consumption coefficient test. To assist the District in determining the power consumption coefficient of wells in the District, (contractors) will (1) perform flow tests under not more than three different flow conditions, and (2) determine the input kilowatt (kW) demand of the pumping plant for each measured flow.

(Contractors) Energy Audits. If permitted by IDWR, (contractors) will use previous energy audits to determine the power consumption coefficient.

Under either Option A, Option B, or Option C of Item 1 (contractors) will perform a pumping water level and pressure measurement if conditions exist where such measurements can be readily obtained.

Under either Option A, Option B, or Option C of Item 1, if District provides the GPS tags and tagging equipment, (contractors) will determine and report the latitude and longitude for each pump utilizing the global positioning system (GPS).

Under either Option A or B of Item 1, (contractors) will (1) provide a photo of the well site, and (2) provide a sketch (not to scale) of pumping plant layout.

(contractors) will submit a monthly report to the District containing the test data gathered during the month under Item 1 above. The reports will be submitted to the District at the time (contractors) invoices the District for payment in accordance with Exhibit 2. The final report shall be furnished to the District no less than thirty (30) days prior to the deadline for the district to file the final report to IDWR, each year during the three-year term of this Agreement to allow the District to comply with IDWR reporting requirements. Reports will be provided to the district in a format agreed upon by both the parties.

Optional Service - At the request of the District, (contractors) will provide "depth-to-water" measurements on a representative sample of wells to be determined by the

parties.

TECHNICAL SERVICE AGREEMENT
EXHIBIT 2

COMPENSATION

Service		Price
1.	Project Services described in items 1 through 5 in Exhibit 1.	$_____ per acere, based on Acreage covered by the water right, plus $_____ per well tested.
2.	Service for determining PCC from energy audits previously performed.	$_____ per well
3.	Optional "depth to water" measurement as described in Item 6 in Exhibit 1.	$_____ per visit

SCHEDULE OF PAYMENTS

District shall pay (contractors) monthly for all services provided under this Agreement. Invoices for payment shall be prepared and submitted to District monthly along with the reports of Project Services performed during the month. All invoices shall contain such data as may be reasonably required to substantiate the billing. All amounts owed by District to (contractors) shall be due and payable within thirty (30) days following District's receipt of invoice. If any invoice in not paid by the due date, interest on the unpaid amount, both principal and interest, shall accrue at the rate of eight percent (8%) per annum from the date due until the date upon which payment is received. At District's request, (contractors) will use its best efforts to schedule its invoice dates to coordinate with the dates the Board usually meets to approve invoices from vendors.

(This form may be used to notify ground water district members that they are in violation of the ground water measurement program.)

[GROUND WATER DISTRICT LETTERHEAD]

date

TO: District Member

RE: Violation of Ground Water Measurement Program

Dear _____:

This letter documents that on _____ (day), _____ (date), _____ (name), on behalf of the _____ Ground Water District (District), tried to inventory and/or measure your ground water diversion(s). The ground water right(s) for the diversion(s) is (are):

Water Right No. _____

Water Right No. _____

The well(s) is/are located at the following legal description(s): _____

_____

_____.

SAMPLE

The District has been unable to measure or inventory your ground water diversions because _____

_____

_____

_____.

Idaho Code requires the measurement, so we will have to notify IDWR if we cannot inventory or measure your diversions. IDWR has the authority to cancel permits, revoke licenses, and issue cease and desist orders (*Idaho Code* §§ 42-311, 42-350, and 42-351).

A copy of this letter will be sent to the Idaho Department of Water Resources, State office, in Boise if the problem has not been corrected by _____ (date).

Sincerely,

_____ GROUND WATER DISTRICT

_____
District Division Director

_____
Contractor

SAMPLE

34-105. "Registered elector" defined. — "Registered elector", for the purpose of this act, means any "qualified elector". [1970, ch. 140, § 5, p. 351; am. 1971, ch. 194, § 5, p. 881.]

Compiler's notes. Former § 34-105 was repealed. See Compiler's notes, § 34-101.

34-106. Limitation upon elections. — On and after January 1, 1994, notwithstanding any other provisions of the law to the contrary, there shall be no more than four (4) elections conducted in any county in any calendar year, except as provided in this section, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor's proclamation.

(1) The dates on which elections may be conducted are:

(a) the first Tuesday in February of each year; and

(b) the fourth Tuesday in May of each year; and

(c) the first Tuesday in August of each year; and

(d) the Tuesday following the first Monday in November of each year.

(e) In addition to the elections specified in paragraphs (a) through (d) of this subsection, an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when there is a great public calamity, [such] as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property. Such a special election, if conducted by the county clerk, shall be conducted at the expense of the political subdivision submitting the question.

(2) Candidates for office elected in February, May or August shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution, or on January 1, next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section, which, prior to January 1, 1994, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section, shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section which falls nearest the date on which elections were previously conducted, unless another date is established by law.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules, regulations or interpretations for the conduct of election authorized under the provisions of this section.

(6) School districts governed by title 33, Idaho Code, and water districts governed by chapter 6, title 42, Idaho Code, are exempt from the provisions of this section.

(7) Initiative, referendum and recall elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such initiative, referendum or recall election shall be held. [I.C., § 34-106, as added by 1992, ch. 176, § 2, p. 553; am. 1993, ch. 313, § 3, p. 1157.]

Compiler's notes. Former § 34-106, which comprised 1970, ch. 140, § 6, p. 351, was repealed by S.L. 1973, ch. 123, § 1, p. 233.

Another former § 34-106, which comprised S.L. 1959, ch. 145, § 1, was repealed by S.L. 1961, ch. 22, § 1.

Section 1 of S.L. 1992, ch. 176 read: "It is the finding of the legislature that the process of exercising the elective franchise should be made as accessible as possible for as many citizens as possible. The provisions of this bill will achieve a significant consolidation of elections on four (4) election dates in each year. In addition, this election code, which applies to the various political subdivisions of the state of Idaho, will assure access to the nominating process, registration of potential electors, absentee voting opportunity and an increased visibility of the electoral process to assure public access and increased participation. At a future date, it may be warranted to further consolidate elections as events demonstrate that need. The goal of providing increased visibility for the electoral process will be well served by this consolidation of elections, by the increased public notice of filing and election deadlines, and the public education which will accompany the implementation of this act."

The bracketed word "such" in subdivision (1)(e) was inserted by the compiler.

Section 3 of S.L. 1992, ch. 176 is compiled as § 34-702A.

Sections 2 and 4 of S.L. 1993, ch. 313 are compiled as §§ 31-1905 and 34-702A, respectively.

Section 7 of S.L. 1992, ch. 176 read: "This act shall be in full force and effect on and after January 1, 1994, except that the provisions of Section 6 [appropriation] of this act shall be in full force and effect on and after July 1, 1992."

Section 15 of S.L. 1993, ch. 313 provided that the act shall be in full force and effect on January 1, 1994.

Sec. to sec. ref. This section is referred to in §§ 21-401, 21-805B, 21-806, 21-809, 21-814, 22-1719, 22-2721, 22-4301, 23-917, 23-1304, 25-2604, 27-106, 27-112, 27-121, 29-2806, 31-206, 31-717, 31-1002, 31-1008, 31-1412, 31-1905, 31-3513, 31-3515, 31-3605, 31-3707, 31-4304, 31-4319, 31-4320, 31-4323, 31-4324, 31-4510, 33-2705, 33-2707,34-1401, 34-1707, 34-2201, 39-1323, 39-1325a, 39-1339, 39-1342, 40-1305KK, 42-1767, 42-2801, 42-3115, 42-3117, 42-3125, 42-3202, 42-3207, 42-3218, 42-3222, 42-3234, 42-3705, 42-3706, 42-3717, 42-4208, 42-4409, 42-4416, 42-5115, 42-5209, 42-5218, 42-5234, 42-5262, 42-5273, 43-201, 50-501, 50-612, 59-911, 63-2220A, 63-4103, 67-4907, 67-4922, 67-4928, 67-6526, 70-1102, 70-1105, 70-1106, 70-1111, 70-1208, 70-1209, 70-1215, 70-1706.

Cited in: Shoshone-Bannock Tribes v. Fish & Game Comm'n, Idaho, 42 F.3d 1278 (9th Cir. 1994).

34-106A. "Special presidential and congressional elector" defined. [Repealed.]

Compiler's notes. This section, which comprised I.C., § 34-106A, as added by 1971, ch. 194, § 6, was repealed by S.L. 1972, ch. 350, § 2.

34-107. "Residence" defined. — (1) "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which

304, § 9, p. 646; am. 1975, ch. 66, § 1, p. 132; am. 1984, ch. 131, § 6, p. 305; am. 1993, ch. 100, § 1, p. 253; am. 1994, ch. 122, § 4, p. 271; am. 1996, ch. 74, § 1, p. 238.]

Compiler's notes. Section 2 of S.L. 1996, ch. 74 is compiled as § 50-443.

Section 4 of S.L. 1996, ch. 74 declared an emergency. Approved March 6, 1996.

CHAPTER 14

UNIFORM DISTRICT ELECTION LAW

SECTION.
34-1401. Election administration.
34-1407. Write-in candidates.

34-1401. Election administration. — Notwithstanding any provision to the contrary, the election official of each political subdivision shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections and elections of special questions submitted to the electors as provided in this chapter. School districts governed by title 33, Idaho Code, and water districts governed by chapter 6, title 42, Idaho Code, irrigation districts governed by title 43, Idaho Code, ground water districts governed by chapter 52, title 42, Idaho Code, and municipal elections governed by the provisions of chapter 4, title 50, Idaho Code, are exempt from the provisions of this chapter. All municipal elections shall be conducted pursuant to the provisions of chapter 4, title 50, Idaho Code, except that they shall be governed by the elections dates authorized in section 34-106, Idaho Code, the registration procedures prescribed in section 34-1402, Idaho Code, and the time the polls are open pursuant to section 34-1409, Idaho Code. For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide directives and instructions to the various county clerks and political subdivision election officials. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of title 34, Idaho Code, governing elections shall prevail over any special provision which conflicts therewith.

A political subdivision may contract with the county clerk to conduct all or part of the elections for that political subdivision. In the event of such a contract, the county clerk shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar. [I.C., § 34-1401, as added by 1992, ch. 176, § 4, p. 553; am. 1993, ch. 313, § 5, p. 1157; am. 1993, ch. 379, § 1, p. 1392; am. 1996, ch. 298, § 1, p. 977.]

Compiler's notes. Section 2 of S.L. 1996, ch. 298 is compiled as § 42-701.

Section 10 of S.L. 1996, ch. 298 declared an emergency. Approved March 18, 1996.

Compiler's notes. Former § 34-1404 which comprised S.L. 1992, ch. 176, § 4, effective January 1, 1994, was repealed by S.L. 1993, ch. 313, § 7, effective January 1, 1994.

Sec. to sec. ref. This section is referred to in §§ 42-3706, 42-4410, 70-1212.

34-1405. Notice of election filing deadline. — [(1)] Not more than fourteen (14) nor less than seven (7) days preceding the candidate filing deadline for an election, the election official of each political subdivision shall cause to be published a notice of the forthcoming candidate filing deadline. The notice shall include not less than the name of the political subdivision, the place where filing for each office takes place, and a notice of the availability of declarations of candidacy. The notice shall be published in the official newspaper of the political subdivision.

(2) The secretary of state shall compile an election calendar annually which shall include not less than a listing of the political subdivisions which will be conducting candidate elections in the forthcoming year, the place where filing for each office takes place, and the procedure for a declaration of candidacy. Annually in December, the county clerk shall cause to be published the election calendar for the county for the following calendar year. It shall be the duty of the election official of each political subdivision to notify the county clerk, not later than the last day of November, of any election for that political subdivision to occur during the next calendar year. In the event of failure to so notify the county clerk, the election official of the political subdivision shall cause to be published notice of the omitted election as soon as he is aware of the omission. This publication shall be in addition to the publication required by paragraph (1) of this section. The election calendar for the county shall be published in at least two (2) newspapers published within the county, but if this is not possible, the calendar shall be published in one (1) newspaper which has general circulation within the county. Copies of the election calendar shall be available, without charge, from the office of the secretary of state or the county clerk. [I.C., § 34-1405, as added by 1992, ch. 176, § 4, p. 553; am. 1993, ch. 313, § 9, p. 1157.]

Compiler's notes. The bracketed subsection designation "(1)" was inserted by the compiler.

34-1406. Notice of election. — The election official of each political subdivision shall give notice for any election by publishing such notice in the official newspaper of the political subdivision. The notice shall state the date of the election, the polling places, and the hours during which the polls shall be open for the purpose of voting. The first publication shall be made not less than twelve (12) days prior to the election, and the last publication of notice shall be made not less than five (5) days prior to the election. [I.C., § 34-1406, as added by 1992, ch. 176, § 4, p. 553; am. 1993, ch. 313, § 10, p. 1157.]

Sec. to sec. ref. This section is referred to in §§ 22-2719, 31-4324, 42-3218, 42-5108, 59-911, 67-4902.

CHAPTER 52 GROUND WATER DISTRICTS

42-5201. Short title -- Title of districts -- Definitions. This chapter is known as the "Ground Water District Act"; the districts created hereunder may be termed "ground water districts." When used in this chapter, and unless otherwise specified, the following terms shall be defined as follows:

(1) "Board" means the board of directors of a ground water district organized pursuant to this chapter.

(2) "Corporation" means a corporation or limited liability company.

(3) "County commission" means the board of county commissioners or any other governing board or authority for a county, as provided by law.

(4) "Department" means the Idaho department of water resources.

(5) "Director" means the director of the department of water resources.

(6) "District" means a ground water district established, or to be established, pursuant to this chapter.

(7) "Ground water" when used in this chapter means water under the surface of the ground whatever may be the geologic structure in which it is standing or moving, as provided in section 42-230(a), Idaho Code.

(8) "Ground water user" means the legal or beneficial owner of a ground water right, or the user of a ground water right pursuant to lease or contract of a ground water right to divert ground water of the state for a beneficial use or purpose, except for those diverting under rights used solely for domestic or stock use as defined by sections 42-111 and 42-1401A, Idaho Code. A ground water user is within the boundary of a ground water district if the well or other point of diversion used by that ground water user is within the boundary. A husband and wife together diverting ground water pursuant to right shall constitute one (1) ground water user. Ground water user includes both a ground water irrigator and a nonirrigator as defined in this chapter.

(9) "Ground water irrigator" means a ground water user holding a ground water right for irrigation purposes within a ground water district.

(10) "Land" or "lands," when used in the context of the property of a ground water user subject to district assessment under this chapter, means the real property where ground water is diverted or placed to beneficial use, including the facilities in or through which a ground water user makes beneficial use of ground waters.

(11) "Nonirrigator" means a ground water user holding a ground water right for commercial, municipal, or industrial purposes within a ground water district. A ground water user will be deemed a nonirrigator for purposes of this chapter even though: (a) some component of the user's ground water use is for irrigation; or (b) the user holds a ground water right for irrigation that is incidental to, or normally associated with, the user's commercial, municipal or industrial purpose.

(12) "Member" means a ground water user whose lands, facilities and/or water rights are included in and subject to a ground water district and its policies.

(13) "Mitigation plan" means a plan to prevent or compensate for material injury to holders of senior water rights caused by the diversion and use of water by the holders of junior priority ground water rights who are participants in the mitigation plan.

(14) "Person" means an individual, partnership, trust, estate, association, corporation,

municipal corporation, the state of Idaho and any of its agencies, the United States, an Indian tribe, a public corporation, or any other public or private entity.

(15) "Public corporation" means counties, city and counties, cities, school districts, municipal water districts, irrigation districts, recharge districts, water districts, park districts, subdistricts, and all other governmental agencies of this state, having the power of levying or providing for the levy of general or special taxes or special assessments, and any political subdivision of another state of the United States.

(16) "Water right" means the legal right to divert and beneficially use the public waters of the state of Idaho where such right is evidenced by a decree, a permit or a license issued by the department, a beneficial or constitutional use right evidenced by an adjudication claim or claim based on section 42-243, Idaho Code, or a right based on federal law.

42-5202. Establishment of ground water districts. Whenever fifty (50) or a majority, whichever is less, of the ground water users in a particular geographic area desire to organize a ground water district, they may propose the organization of a district and the election of its initial board of directors under this chapter.

42-5203. Petition for organization -- Map -- Bond. (1) A petition shall be first presented to the county commission of the county in which the greatest proportion of cubic feet per second of ground water rights of the proposed district is situated, which petition shall:

(a) Be signed by the required number of ground water users in such proposed district;

(b) State that the petitioners desire to have their lands included within and subject to the assessments of the district for purposes consistent with this chapter;

(c) Set forth and describe by township, range and section, with the degree of certainty required by law in a tax roll, the boundary of the area where, if a ground water user is located within that boundary, that ground water user would be included in a ground water district, and shall request that the area described be organized into a ground water district;

(d) Propose a name for the district;

(e) Be accompanied by a list, identifying the ground water users within such proposed district by name, address, ground water right number, point of diversion, and cubic feet per second per ground water right, certified by the director of the department of water resources as accurately reflecting the records of the department;

(f) Be accompanied by a map which shall indicate the proposed boundaries of the district, and which may propose division boundaries as specified in section 42-5208, Idaho Code;

(g) Propose between three (3) and seven (7) divisions and division boundaries;

(h) Include nominations for a director for each division, each of which shall be signed by not less than six (6) ground water users in the proposed district;

(i) Be accompanied by bond, to be approved by the county commission, in double the amount of the probable cost to the county and the department of organizing such district, conditioned that the bondsmen will pay all said costs, in case organization of the district is unsuccessful.

(2) The petition, together with all maps and papers filed therewith, shall, during the county's office hours, be open to public inspection at the office of the county clerk between the date of filing and the date of the final hearing thereon. The boundaries specified in the petition

shall be proposed in such manner that the greatest distance between two (2) wells in the district shall be no more than thirty (30) miles unless good cause is shown to the county commission for including a larger area.

(3) Lands of ground water users do not have to be contiguous within a ground water district, and such district may be organized even though its boundaries may overlap with other districts formed pursuant to title 43, Idaho Code, or other titles of the Idaho Code.

(4) If the district is organized, the costs of organization shall be assessed against the members of the district.

42-5204. Notice of presentation to county commission. The petition may be filed with the county clerk, upon verifying with the county assessment roll or other evidence of entitlement whether the petition is valid, at any time, and upon such filing the clerk forthwith shall cause a notice to be published in a newspaper printed within the county (counties) within the boundaries specified in the petition, or if no newspaper is printed in any of the affected counties, then in newspapers of general circulation in the affected county (counties). The notice shall state that (giving the first name on the petition) and others have filed a petition for the organization of a ground water district. The notice shall state the numbers of the townships, ranges, and sections where, if a ground water user is within those townships, ranges, and sections, that ground water user would be within the proposed district. The notice shall further state the time at which such petition will be presented to the county commission, which time shall be during a regular meeting of the commission or a special meeting called for that purpose, and the notice shall be published at least once a week for two (2) consecutive weeks before the day on which the petition is to be presented.

42-5205. Notice of county commission hearing. When the petition is presented, the county commission shall set a time for a hearing on the petition, which shall not be less than four (4) nor more than eight (8) weeks from the date of presentation, unless extended by the county commission for good cause. A notice of the time of such hearing shall be published by the county clerk, at the direction of the commission, at least three (3) weeks before the time of such hearing, in a newspaper or newspapers as required in section 42-5204, Idaho Code.

42-5206. Examination by department of water resources -- Report to county commission -- Amendment of plan. (1) A copy of the petition and all maps and other papers filed with the county commission shall be filed with the department on the same day the petition is filed with the county commission.

(2) The department shall examine the petition, maps and other papers submitted in support of it, and, taking into account hydrological factors, patterns of ground water use, or other attributes of the area that may aid the county commission, prepare a report upon the boundaries proposed for the district and submit the report to the county commission at least two (2) weeks before the meeting set for the commission to hear the petition.

42-5207. Organization hearing before county commission -- Order of county commission. (1) After receiving the report of the department of water resources, the county commission shall conduct a hearing on the petition. If the county commission determines that the requisite number of signatures were not gathered on the petition, the board shall adjourn the

hearings for two (2) weeks for the purpose of enabling the petitioners to gather additional signatures. The petitioners may amend the boundaries of the proposed district at the hearing to include or exclude lands of those ground water irrigators who provide written notice or who appear at the hearing requesting that their lands be either included or excluded, to meet the recommendations of the department, or as they may find advisable to achieve suitable district boundaries. The county commission shall accept any additional nominations of persons to be directors at the hearing or the nominations may be filed with the county clerk. The nominations must be signed by at least six (6) ground water users from the proposed district.

(2) When the county commission has determined to proceed with the petition, it may adjourn the hearing from time to time, not exceeding four (4) weeks in all, and on final hearing, the county commission:

(a) May make such other changes in the proposed boundaries of the district and divisions within the district as it may find proper; and

(b) Shall make an order on its records describing the area which it shall have determined to include in the district, and stating that lands of ground water users within such area will be organized into a ground water district if the vote of the electors accepts organization of the district.

(3) The county commission shall notify the department of the final action by mailing or faxing a copy of the order to the department within seven (7) days of the board's decision. If the boundaries of the proposed ground water district differ from the boundaries contained in the department's original report, the department shall prepare a revised list of the ground water users within such proposed district by name, address, ground water right number, point of diversion, and cubic feet per second per ground water right and return it to the county commission.

42-5208. Divisions of district for election of directors. The county commission shall also make an order dividing the district into not less than three (3) nor more than seven (7) divisions, each division to contain approximately the same amount, measured in cubic feet per second, of ground water rights as each other division. The divisions shall be numbered first, second, third, etc., and one (1) director, who shall be a ground water user in the division, shall be elected from each division of the district at large. The number of divisions into which the district shall be divided shall be specified in the petition for the organization of the district, and if not otherwise specified shall be three (3).

42-5209. Notice of election. The county commission shall give notice of an election to be held in accordance with section 34-106, Idaho Code, in the proposed district for the purpose of determining whether the district shall be organized under this chapter, and, if so, who shall be its initial directors. The notice shall describe the area, with the certainty required in an ordinary deed, where, if a ground water user is located within that area, that ground water user would be included in the district and shall state the name of the proposed district as designated by the commission, and shall state that a map showing the area of the district is on file in the office of the county clerk, which map, if not previously made, shall be made by the petitioners after the determination of the commissioners of the boundary of the proposed district, and shall state the names of those individuals who have been nominated for director's positions. The notice shall be published for four (4) weeks prior to such election, in a newspaper or newspapers as required in section 42-5204, Idaho Code. The notice shall require the electors to cast ballots which shall

contain the words "ground water district--yes," or "ground water district--no," and also to cast ballots for at least one (1) person from each division for director of the district.

42-5210. Qualifications of voters for district elections. (1) Any ground water irrigator, and any nonirrigator who is a member for all purposes, within the proposed district shall be entitled to vote at any election held under the provisions of this chapter. The production of documentation of a water right as described in section 42-5201(16), Idaho Code, shall be sufficient evidence of ground water use for purposes of acting as an elector under this chapter. A representative of a ground water user shall be so designated by written proxy signed by the ground water user except that the vote of a state or county government may be cast by an elected or appointed official of the agency, or his designee. A corporation or partnership shall vote or otherwise act by a single individual who is authorized by the corporation or partnership to act on its behalf. A corporation or partnership must furnish the election officials a written designation stating the name of the individual who is authorized to vote and otherwise act for the corporation or partnership.

(2) Any ground water user who becomes a member of a district solely for mitigation purposes:

(a) Shall be entitled to vote only in those district elections concerning whether to incur indebtedness as specified in section 42-5234, Idaho Code; and

(b) Shall be ineligible to nominate directors or officers of the district, to serve in such capacities, or otherwise to participate in the governance of the district.

(3) A nonirrigator may participate in the election to determine whether a district will be formed only according to the following provisions:

(a) The nonirrigator shall notify the judges of election in writing at least ten (10) working days prior to the date of the election that such person supports the formation of the district, elects to become either a member for all purposes, or a member only for mitigation purposes as described in section 42-5214, Idaho Code, should it be formed, and, by such notice, casts its vote(s) in favor of formation.

(b) The notification shall contain a legal description of the land through which the nonirrigator places ground waters to beneficial use, a statement of the amount of such person's ground water right in cubic feet per second of diversions, and a copy of the ground water right documentation described in section 42-5201(16), Idaho Code.

(c) Once the judges of election have accepted the notification described in subsection (3)(b) of this section, they shall duly record the nonirrigator's vote(s) in favor of district formation in the canvassing of votes carried out pursuant to section 42-5213, Idaho Code.

(d) If the voting results in the formation of the district, the nonirrigator who provided such notification thereafter shall be a full member or member for mitigation purposes of such district, whichever the case may be, and shall have all obligations, rights, and limitations attaching thereto.

(4) Each ground water user shall have one (1) vote for each cubic foot per second, or proportion thereof (rounded to the nearest tenth of a cubic foot per second), for which such ground water user holds a ground water right whose point of diversion is within the proposed district boundaries.

42-5211. Conduct of elections. (1) Elections shall be conducted as nearly as practicable

in accordance with the general laws of the state; provided, no particular form of ballot shall be required, and that the provisions of the election laws as to the form and distribution of ballots shall not apply.

(2) The county commission shall establish one (1) or more election precincts, not exceeding seven (7), as may be necessary, and define the boundaries thereof, which boundaries, when the district is divided into precincts, shall be the same as the division boundaries above-provided for and which said precincts may thereafter be changed by the board of directors of such district as may be necessary; provided, that districts shall have not less than three (3), nor more than seven (7) voting precincts.

(3) The county commission shall also appoint three (3) judges of election for each such election precinct, who shall perform the same duties as near as may be as judges of election, under the general laws of the state.

42-5212. Registration not required. No registration shall be required in any ground water district election, but in lieu thereof the judges of election shall require every elector to subscribe to an elector's oath as prerequisite to casting his vote, and such oath shall be the usual elector's oath with the following words added thereto, "I am a resident of ..... county, and I am a ground water user within the ..... (proposed) ground water district, or I am a representative of a ground water user within the ..... (proposed) ground water district" and present evidence of such ground water use pursuant to [section] 42-5201(16), Idaho Code, if they do not appear on the department's list as provided in section 42-5206, Idaho Code.

42-5213. Canvass of votes -- Completion of organization. (1) Immediately after any election for voting upon the organization of a ground water district, the judges of the election shall forward the official results of said election to the county clerk. The county commission shall meet within ten (10) days after the election returns are received, and canvass the votes cast. If it appears that two-thirds (2/3) of the votes cast are "ground water district--yes," the commission shall, by order entered on its minutes, declare such territory duly organized as a ground water district, under the name designated, shall declare that a map showing the area of the district is on file in the office of the county clerk and shall declare the persons receiving respectively the highest number of votes for director from each division to be duly elected as directors. The county commission shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of each county in which any portion of such district is situated, and shall mail a certified copy of the order to the director.

(2) If it shall appear, however, that more than one-third (1/3) of the votes cast are "ground water district--no," then a record of that fact shall be duly entered upon the minutes of the board, and all proceedings in regard to the organization of the district shall be void, and the expenses properly incurred thereunder may be collected on the bond provided for in section 42-5203, Idaho Code.

42-5214. Ground water users included within the district. (1) All ground water irrigators within the boundaries of the district are members of the district and subject to assessments, rights and responsibilities established by the district as set forth in this chapter, notwithstanding any change in the ownership or control of the property of the water user, whether by way of transfer, exchange, conveyance, assignment, lease, or otherwise, to which the water right or rights used to

determine assessments are appurtenant, unless excluded from the district pursuant to sections 42-5251 through 42-5257, Idaho Code.

(2) All nonirrigators within the boundaries of the district who voted according to notice as provided in section 42-5210(3), Idaho Code, are members of the district as specified in such notice.

(3) A nonirrigator also may become a member of a district by providing, within sixty (60) days after the date on which the district is formed, written notice to the district board that the nonirrigator wishes to join the district either as a member for all purposes or as a member for mitigation purposes only. Upon providing such notice, the nonirrigator shall be either a member for all purposes or a member for mitigation purposes only, as specified in the notice, and shall be subject to assessment accordingly as provided in this chapter. After such sixty (60) day period, a nonirrigator may become a member of a district only through the annexation procedure described in sections 42-5245 through 42-5249, Idaho Code.

(4) Except as provided for municipal, commercial, industrial, federal and tribal ground water users in subsection (1) of this section, any person whose permit to appropriate ground water was acquired after the formation of the district, or who appropriates ground water for uses not requiring a permit after the formation of the district, but qualifies as a ground water user under subsection (10) of section 42-5201, Idaho Code, within the area of the district in all other respects, shall be deemed included within and subject to assessment by the district, if benefitted either directly or indirectly by the district.

42-5215. Limitation on proceedings affecting validity. No action shall be commenced or maintained, or defense made affecting the validity or organization of the district, more than two (2) years from and after the county commission enters on its minutes the order directing the formation of the district.

42-5216. Organizational meeting of board. From and after the date the county commission files its order declaring the district to be formed by election, the organization of the district shall be complete and those ground water users specified in section 42-5214, Idaho Code, shall be included within the district. The officers and directors of the district shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying according to law, and shall hold such offices respectively, until their successors are elected and qualified. The board of directors so elected shall meet within thirty (30) days after their election and elect a chairman, and appoint a secretary and treasurer, who shall perform the duties imposed upon such officers under this chapter.

42-5217. Treasurer's official bonds. The treasurer shall on his appointment execute and file with the secretary an official bond in such amount as may be fixed by the district board of directors, which shall not be less than five thousand dollars ($5,000); and shall thereafter from time to time execute and file such further bonds as may be required by the board in amounts fixed by it, which amounts shall be of at least fifty percent (50%) of the maximum probable amount of money in the treasurer's hands at any one (1) time. All such official bonds shall be executed by a lawfully qualified surety company.

42-5218. Election, term of office, nominations and qualifications. (1) One (1) year

following the organization of the district, an election shall be held in accordance with section 34-106(1), Idaho Code, at which shall be elected one (1) director for each division of the district by the electors of the district at large. Following the election, the term of office of the directors shall be selected by lot so that as nearly as may be, one-third (1/3) of the number shall hold office for the term of one (1) year, one-third (1/3) for the term of two (2) years, and the balance for the term of three (3) years. An election shall be held in the district in accordance with section 34-106(1), Idaho Code, for each year thereafter, at which directors shall be elected to succeed those whose terms expire, to hold office for a term of three (3) years, or until their successors are elected and qualified. Every director must be a ground water user and a member of the district in the division of the director whom he is to succeed in office. Written nominations for the office of director must be signed by at least six (6) members in districts having less than one hundred (100) members and by at least twelve (12) members in districts having more than one hundred (100) members, and filed with the secretary of the district not less than twenty-eight (28) days nor more than forty-two (42) days before the date of election; and the names of the persons so nominated shall be placed upon official ballot to be furnished by the district.

(2) The board of directors may provide that any elections conducted under this chapter may be conducted by mail as long as the ballots are mailed not later than fourteen (14) days prior to the election and received by the secretary of the district by 8:00 p.m. on the date of the election.

42-5219. When election not required. In any election for directors if, after the expiration of the date for filing written nominations for the office of director, it appears that only one (1) qualified candidate has been nominated thereby for each position to be filled, it shall not be necessary to hold an election, and the board of directors shall, within five (5) days after expiration of the date for filing written nominations, declare such candidate elected as director. The procedure set forth in this section shall not apply to any other district election.

42-5220. Notice of election. The secretary of the district shall give notice of all elections in the district by posting the same in five (5) public places in each county in which a part of the district is situated and in the office of the board of directors at least four (4) weeks before the day of such election, or by publication of the notice once a week for four (4) successive weeks in a newspaper or newspapers published in each of said counties or in a newspaper of general circulation therein. Notices shall state the time of the election and the location of polling places within the district and the directors to be elected or other question to be voted upon, as the case may be.

42-5221. Conduct of elections. The election shall be conducted as nearly as practicable in accordance with the general laws of the state; provided that no particular form of ballot shall be required and the provisions of the election laws as to the form and distribution of ballots shall not apply and each ballot must indicate the number of cubic feet per second associated with the ballot cast. The board of directors shall designate polling places in such number as it may deem necessary. At least ten (10) days before the holding of any election, the board shall appoint three (3) electors to serve as judges of election at each polling place. The judges shall perform the same duties as near as may be, as judges of election under the general laws of the state. Immediately after the election, the judges of election shall forward the official results to the

secretary of the district.

42-5222. Canvass of returns -- Declaration of winners. On the first Monday after each election, or at a time designated by the board of directors, the board shall meet at its usual place of meeting and proceed to canvass the returns. By order entered on its minutes, the board shall declare elected the person or persons having the highest number of votes for each office.

42-5223. Board of directors -- Officers -- Meetings -- Compensation -- Vacancies. (1) The board of directors annually shall elect a chairman from their number and shall appoint a secretary and a treasurer to hold office at the pleasure of the board. Upon appointment the treasurer shall execute and file with the secretary an official bond in such amount as may be fixed by the board of directors, and shall thereafter from time to time execute and file such further bonds as may be required by the board in amounts fixed by it, which amounts shall be at least fifty percent (50%) of the maximum probable amount of money in the treasurer's hands at any one (1) time. All such official bonds shall be executed by a lawfully qualified surety company.

(2) The board of directors shall designate an office of the district.

(3) The board of directors shall hold a regular monthly meeting in the district's office on the first Tuesday in every month or such date each month as it shall fix by resolution, and such special meetings as may be required for the proper transaction of business. Special meetings may be held on seventy-two (72) hours' notice of the chairman or a majority of the members. A majority shall constitute a quorum for the transaction of business and the concurrence of a majority of the members shall be necessary to constitute the action of the board. All meetings of the board shall be public and all records of the board shall be open to the inspection of any member water user, or representative thereof during business hours.

(4) The members of the board of directors shall fix the compensation board members shall receive for each day spent attending the meetings, or while engaged in official business under the order of the board, together with actual and necessary expenses. The term "actual and necessary expenses" shall include all traveling and lodging expenses necessarily incurred by any director when absent from his residence in the performance of the duties of his office. The board shall fix the compensation to be paid to the other officers of the district.

(5) In case of a vacancy in the office of director occurring otherwise than by the expiration of a term, the remaining members of the board of directors shall fill such vacancy by appointing a ground water user who is a member of the district or a representative thereof, possessing full voting qualifications under this chapter and the qualifications of the director whose office has become vacant to serve the remainder of the term.

42-5224. Powers and duties of board of directors. The board shall, in addition to any other powers and duties provided in this chapter, and provided that nothing in this chapter shall abrogate or impair the right of any person to take any action necessary to acquire, protect, challenge or defend any water right, have the following powers and duties:

(1) To acquire, and/or construct, operate, control or use by appropriation, grant, purchase, bequest, devise, contract or lease works or facilities, water rights, water permits or licenses, well-drilling permits, wells, pipelines, ditches and any other real and personal property (including easements and rights-of-way) or contract entitlement within or without the district necessary or convenient to fully exercise its powers;

(2) To sell, lease, encumber, alienate, or otherwise dispose of works or facilities, water, water rights, wells, pipelines, ditches, reservoirs, recharge facilities, and any other real and personal property owned by the district within or without its boundaries;

(3) To enter into contracts and agreements, cooperative and otherwise, including contracts with the United States of America and any of its agencies or instrumentalities, and tribes, and contracts with corporations, public or private, municipalities, or governmental subdivisions necessary or convenient to fully exercise its powers;

(4) To hire and retain agents, employees, engineers, hydrologists, geologists, and attorneys as shall be necessary and convenient to transact the district's business and to represent the district's interests;

(5) To levy assessments for the operation of the district and its programs;

(6) To represent district members, with respect to their individual water rights, in general water rights adjudications and other legal and administrative proceedings or before political bodies, provided that the board may levy assessments for these matters against only those members who have given written consent for the representation;

(7) To appropriate, develop, store, and transport water within the state;

(8) To acquire stock in canal companies, water companies, and water users' associations;

(9) To invest any surplus money in the district treasury pursuant to the public depository law as contained in chapter 1, title 57, Idaho Code;

(10) To develop, maintain, operate and implement mitigation plans designed to mitigate any material injury caused by ground water use within the district upon senior water uses within and/or without the district;

(11) To finance the repair or abandonment of wells in the ground water district which have experienced or are experiencing declines in water level or water pressures because of reasons including, but not limited to, flow, leakage, and waste from improper construction, maintenance, and operation of wells;

(12) To have and exercise the power of eminent domain in the manner provided by law for the condemnation of private property for easements, rights-of-way, and other rights of access to property necessary to the exercise of the mitigation powers herein granted, both within and without the district;

(13) To sue and be sued, and be a party to suits, actions and proceedings;

(14) To enter into joint powers agreements and/or memoranda of understanding with other districts, governmental or quasi-public entities;

(15) To develop and acquire water rights for, and operate, aquifer storage or recharge projects;

(16) To monitor, measure, study, and implement programs in the interests of the district's members regarding the protection of ground water diversions, depth of water in wells, aquifer water levels and characteristics;

(17) To adopt and amend bylaws not in conflict with the constitution and laws of the state for carrying on the business, objects and affairs of the board and of the district and to establish a fiscal year;

(18) To enter upon land to make surveys, locate district property, works, or facilities, and to otherwise conduct the affairs of the district;

(19) To make, record and report annually to the director sufficient measurements of diversions and water levels of district members to allow the district to be excluded from any

water measurements district created pursuant to sections 42-705 through 42-715, Idaho Code.

(20) To manage and conduct the affairs of the district and to have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this act.

42-5225. Authority to construct and operate ground water recharge or storage project. Any ground water district organized under the laws of this state is authorized in section 42-4201A, Idaho Code, to file an application with the department to acquire water rights or to appropriate the unappropriated waters of the state for the purpose of storing waters in, or recharging, ground water basins within the district to aid in the efficient irrigation of district lands, to serve domestic, commercial, municipal or industrial uses within the district, or to carry out a mitigation plan. Upon approval of the application for permit by the director, the district shall proceed in the manner provided by law to construct and operate the ground water storage or recharge project. The construction and operation of the project shall be subject to such additional conditions and limitations as shall be imposed by the director pursuant to sections 42-203A, 42-222 and 42-4201A, Idaho Code.

42-5226. Intersections with streets, railroads, watercourses. The board of directors shall have power to construct the works necessary to implement an approved mitigation plan across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch or flume which the works may intersect or cross, in such manner as to comply with the requirements of the stream channel alteration act, chapter 38, title 42, Idaho Code, and to afford security for life and property, provided that the board shall restore the same when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed pursuant to this section, shall unite with the board in forming the intersections and crossings and grant the privileges aforesaid; and if such railroad company and the board, or the owners and controllers of the property, thing or franchise to be crossed, cannot agree upon the amount to be paid therefor, or upon the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as herein provided in respect to the taking of land.

42-5227. Officers must not be interested in contracts. No director or any other officer named in this chapter shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom, except as a member of the district; and for any violation of this provision such officers shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

42-5228. Indemnification of officers, directors, employees and agents. The indemnification provisions of section 43-204A, Idaho Code, shall apply to ground water districts in the same manner as for irrigation districts.

42-5229. Report to department of water resources. At least as often as once a year after

organization, the board of directors shall make a report to the department of the condition of the work of any mitigation plans developed by the district, as to capacity, stability and permanency, and whether or not any such mitigation plans are being successfully carried out, and whether or not in the opinion of the board the funds available will complete and maintain the mitigation plans. Upon the receipt of such report by the department, it may make such suggestions and recommendations to such board of directors as it deems advisable for the best interest of the district.

42-5230. Statement of financial condition. On or before the second Tuesday of February of each year the board of directors of each ground water district organized under this chapter shall publish in at least one (1) issue of a newspaper published in the county or counties in which such district is situated, a full, true and correct statement of the financial condition of the district, at the end of the last preceding fiscal year, giving all liabilities and assets of the district, in a form to be prescribed by the controller of the state of Idaho.

42-5231. County commission to have access to books. Any district board, or the secretary thereof, shall at any time allow any member of the county commission, when acting under resolution of the commissioners, to have access to all books, records and vouchers of the district which are in possession or control of the board of directors or secretary of the board.

42-5232. Levy of assessments. (1) The secretary of the board shall be the assessor of the district, and on or before August 1 of each year shall prepare an assessment book containing a full and accurate list of all lands within the district that are subject to assessment under this chapter.

(2) At a regular meeting of the board between August 1 and November 1 of each year, the board of directors shall determine the amount necessary to be raised for payment of the annual payment on any and all indebtedness of the district for the following year. Money received in payment of such assessments shall be deposited in a separate fund to be known as the debt retirement fund.

(3) The board shall, in addition, determine the assessments necessary to pay, without limitation, the expenses of developing, operating or maintaining any mitigation plan established by the district and the cost of contracts with any person for mitigation plans, or evaluation of proposed contracts. Money received in payment of such assessments shall be deposited in a separate fund to be known as the mitigation expense fund.

(4) The board shall, in addition, determine the assessments necessary to pay maintenance and operation of the district not related to mitigation plans or purposes. These operation and maintenance duties include making the assessment book, giving notice of assessments and making collections thereof, and other duties, programs or projects of the district to the extent such duties, programs or projects are not attributable to mitigation plans or purposes. Money received in payment of such assessments shall be deposited in a separate fund of the district to be known as the operating expense fund.

(5) Any ground water user who becomes a member of a district for mitigation purposes shall be subject to no assessment beyond his proportional share of the costs, including administrative costs and other reasonable expenses, of any mitigation plan or actions or activities in furtherance of the district's mitigation plans or purposes.

(6) No assessment made pursuant to this chapter shall be a lien against any municipal property.

(7) Except as otherwise provided in this chapter, each member shall pay a proportionate share of the total of all amounts to be assessed for the purposes aforementioned, which share shall be based on the ratio which the quantity of water the water user is authorized to appropriate under the member's ground water right(s) bears to the total quantity of water authorized for appropriation under the ground water rights of all water users in the district, provided, that the board shall be entitled to levy assessments that adjust a member's proportionate share to take into consideration priority dates, consumptive use under the members' respective ground water rights, other attributes of the ground water rights appurtenant to the assessed lands, and/or the benefits the member derives from a mitigation plan or other activity of the district.

42-5233. Power to incur indebtedness -- Assessments to secure repayment -- Warrants. (1) In order to secure funds for the mitigation plan or plans for the district, the board of directors may, by resolution duly adopted and entered upon the minutes, incur indebtedness by contract with a money lending institution; provided however, that the term of such indebtedness shall not exceed ten (10) years. To secure the repayment of any indebtedness so incurred, the board shall levy assessments over the term of the indebtedness in amounts sufficient to repay the interest and principal as it falls due. Such assessments shall be levied in the manner and shall be subject to the limitations set forth in section 42-5232, Idaho Code, and may be levied only if the indebtedness has been approved at an election pursuant to sections 42-5234 through 42-5238, Idaho Code.

(2) Notwithstanding the provisions of subsection (1) of this section, the board of directors may, before the collection of the first assessment, incur indebtedness for the purpose of organization, or for any of the purposes of this chapter, and cause warrants of the district to issue therefor, provided that the total dollar amount of the warrants authorized to be issued shall not exceed one dollar ($1.00) for each two-hundredths (.02) of a cubic foot per second of ground water authorized to be diverted and used upon lands or facilities located within the district. Following the collection of the first assessment, the board of directors may at any time issue warrants of the district for the purpose of paying claims of indebtedness against the district, including salaries of officers and employees, not to exceed the district's anticipated revenue.

(3) The warrants herein authorized shall be in form and substance the same as county warrants or as nearly the same as may be practicable and shall be signed by the chairman and attested by the secretary of said board. All such warrants shall be presented by the holder thereof to the treasurer of the district for payment who shall endorse thereon the day of presentation for payment with the additional endorsement thereon, in case of nonpayment, that they are not paid for want of funds, and such warrants shall draw interest at a rate to be established by the board of directors from the date of their presentation to the treasurer for payment as aforesaid until such warrants are paid. No warrants shall be issued in payment of any indebtedness of such district for less than face or par value. It shall be the duty of the treasurer from time to time when sufficient funds are available for that purpose to advertise in a newspaper in the county in which the district is situated requiring the presentation to the treasurer for payment of as many of the outstanding warrants as are able to be paid. Ten (10) days after the first publication of said notice by the treasurer calling in any of said outstanding warrants, said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two (2) weeks consecutively

and said warrants shall be called in and paid in the order of their endorsement.

42-5234. Election for indebtedness -- Referendum petition. (1) The board may by resolution adopted by a two-thirds (2/3) majority of the board, determine that the interest of the district and the public interest and necessity demand the development and operation of a mitigation plan and shall set forth the amount of obligation or contract indebtedness proposed to be issued by the district under the provisions of this chapter for the development of such mitigation plan. The board shall submit the contract indebtedness in the proposed resolution to a vote of the qualified electors of the district as defined in section 42-5210, Idaho Code, at an election to be held only if within fifteen (15) days after the passage of such resolution a referendum petition signed by qualified electors of the district whose aggregate ground water rights equal not less than ten percent (10%), measured in cubic feet per second, of the aggregate ground water rights of all qualified electors of the district, shall be filed with the secretary of the district requesting that an election upon the issuance of the contract indebtedness be held and conducted under the provisions of this section. Any election required to be held pursuant to a referendum petition filed in accordance with this section for the purpose of submitting any proposition or propositions of incurring such obligation or indebtedness shall be held in accordance with section 34-106, Idaho Code. The resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the mitigation plan, the amount of principal of the indebtedness to be incurred therefor, and the sources of the revenues and assessments pledged to the payment of the indebtedness. The separate election upon the assessments, shall be held at the same time as and shall be combined with any such election required to be held upon the indebtedness question pursuant to a referendum petition.

(2) Any election for indebtedness required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, the manner of holding the same and the method of voting for or against the incurring of the indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the county commission of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. Precincts established by the county commissions of the various counties may be consolidated for special elections held hereunder. In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom. The resolution calling the election shall prescribe an official notice of election, which notice shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places

need be given or made.

(3) The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the district secretary. At any regular or special meeting of the board held not earlier than five (5) days following the date of such election, the returns shall be canvassed and the results declared.

(4) If no referendum petition is filed, or if so filed, if it shall appear from the returns that the qualified electors of the district representing two-thirds (2/3) of the aggregate ground water rights of the district, such fraction computed according to cubic feet per second, have voted in favor of the proposition, the district thereupon shall be authorized to incur such indebtedness or obligations, or enter into such contracts, all for the purposes provided for in the proposition submitted in the resolution, and in the amount so provided. Submission of the proposition of incurring such obligation or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose.

42-5235. Judicial examination. (1) Prior to the incurring of indebtedness, the board shall file a petition in the district court of the county in which the office of the board is located, pursuant to the provisions of sections 43-406 through 43-408, Idaho Code, as if the district were an irrigation district. Whenever any district which is required to file a petition hereunder has or proposes to enter into a contract or contracts with one (1) or more districts pursuant to law, and such other district or districts is authorized or required to bring a confirmation proceeding or proceedings pursuant to the provisions of section 43-406 or section 43-1808, Idaho Code, with respect to such contracts or the levy of assessments or the apportionment of costs, the boards of each of such other districts shall join in the filing of such petition, and the district court in which such petition is filed shall have jurisdiction to hear the petition and to grant the relief prayed for therein. Each such petition shall pray for a judicial examination and determination of any power conferred hereby or by any amendment hereto or of any assessment levied or of any apportionment of costs or of any act, proceeding or contract of the district or districts, whether or not said contracts shall have been executed, including, without limitation, proposed contracts for the reconstruction, rehabilitation, replacement and improvement of any well and other related structures and works and appurtenances, falling water contracts, contracts with other districts and contracts with other public and private persons, firms, corporations and associations. Such petition shall set forth the facts whereon the validity of such powers, assessments, apportionments, acts, proceedings or contracts is founded. Notice of the filing of said petition shall be given by the clerk of the court by mailing, and by publication in at least one (1) newspaper published and of general circulation within the boundaries of each district joining in the petition, or if no newspaper is so published within any district, then in a newspaper published in the same county in which any part of such district is located which is of general circulation in such district, pursuant to and in accordance with the requirements of section 43-407, Idaho Code, as if the district were an irrigation district under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract or contracts, therein mentioned, may be examined.

(2) Any ground water user in any district joining in the petition or any other person interested in the contracts or proposed contracts may appear and answer the petition at any time

prior to the date fixed for the hearing or within such further time as may be allowed by the court; and the petition shall be taken as confessed by all persons who fail so to appear. The said petition and notice shall be sufficient to give the court jurisdiction and, upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, shall examine all of the proceedings of all of the districts as set forth in the petition, shall hear all objections either filed in the proceeding or brought up from the hearings before any of the boards, shall correct all errors in the assessments and apportionments of costs, shall ratify, approve and confirm all apportionments of costs and assessments levied, shall make such findings with reference thereto and render a judgment and decree thereon approving and confirming all of the powers, assessments, apportionments, acts, proceedings and contracts of each of the districts as set forth in the petition as the case warrants. Costs may be divided or apportioned among the contesting parties in the discretion of the trial court. Review of the judgment of the court may be had as in other similar cases. The Idaho rules of civil procedure shall govern in matters of pleading and practice where not otherwise specified herein. The court shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties. Except as provided herein, the provisions of sections 43-406 through 43-408, Idaho Code, shall apply to the proceeding herein authorized as though the ground water district were an irrigation district.

42-5236. Judicial proceedings to test validity. If any official required to participate in any act leading to the calling or holding of the required election or the execution of any required contract shall refuse to perform such act alleging as his reason illegality of the proposed election or the proposed contract, the board may institute judicial proceedings to compel such steps to be taken and legality of the election or the contract to be determined. All cases in which there may arise a question of the validity of any proceeding under this act shall be advanced as a matter of immediate public interest and concern, and heard at the earliest practicable moment. The courts shall be open at all times for the purposes of this act.

42-5237. Tax Exemption. Interim notes, and the interest thereon, issued pursuant to the authority contained in this chapter shall be exempt from taxation under the Idaho income tax law.

42-5238. Liberal construction. Any restrictions, limitations or regulations relative to the execution of such contracts pursuant to the authority herein contained in any other act shall not apply to the execution of such contracts pursuant to the authority herein contained. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only. This chapter being necessary to secure and preserve the public health, safety, convenience and welfare, and for the security of public and private property, it shall be liberally construed to effect the purposes of this chapter.

42-5239. Lending institutions -- Right to compel assessments -- Alternative remedy. If in any year the board of directors fails to levy assessments for the repayment of indebtedness in amounts sufficient to meet a payment or payments falling due, the lender may bring an action in the district court of any county in which the district is situated to compel the board to levy assessments in amounts sufficient to insure the payment thereof. In the event that the annual assessment to meet a payment or payments falling due will be unreasonably high, the district

court may, in the alternative, enter an order requiring that moneys received by the district in payment of assessments for all purposes be first expended for the repayment of that portion of the indebtedness falling due.

42-5240. Lien of assessment. From and after January 1 of any year, all assessments, other than those levied against municipalities, shall be liens against the land of ground water users to which the water rights used to determine assessments are appurtenant. Such liens shall not be removed until the assessments are paid or the property is sold for the payment thereof.

42-5241. Payment of assessments -- When delinquent -- Interest and penalties. District assessments shall be billed and collected in one (1) of the following ways:

(1) On or before the first day of December, the treasurer of the district shall mail an assessment bill to each water user and shall publish a notice for a period of not less than two (2) weeks in a newspaper published or having general circulation in each of the counties in which any part of the district is situated, which bill and notice shall set forth the date by which assessments must be paid and the times and places at which payment may be made. Assessments collected by the ground water district shall be due and payable on or before December 31 of each year, after which date each unpaid assessment shall be delinquent; shall bear interest at the rate of interest established for money due on judgments until paid; shall entitle the district to take any appropriate action to collect the assessment, including suit and the foreclosure of liens as provided in this chapter; and, in addition, shall be subject to a penalty in the amount of fifteen dollars ($15.00) per delinquent assessment; or

(2) The board of directors of any ground water district organized under the laws of this state desiring to provide for the collection of district assessments by the county treasurer instead of the district treasurer may do so by adopting a resolution providing for collection by the county treasurer, and furnishing a copy of the resolution to the county auditor of each county in which any of the district lands are located; provided that the county commissioners of the county or counties must first approve the ground water district resolution by a proper resolution of the board of county commissioner's adopted by a majority of the county commissioners and made and entered upon the minutes of the board or boards of county commissioners. The board of county commissioner's resolution may provide for collection fees and for any additional fee against the ground water district for the cost of transferring records and initiating the collection process. The board of county commissioners of any county, having determined that the collection of ground water district assessments is an undue burden upon the county and shall no longer be provided, shall notify the board of directors of the ground water district by December 1 in the year preceding the year for which the action shall first be effective by providing to the board of directors a certified copy of the majority decision of the board of county commissioners.

If the ground water district board determines to issue assessments through the respective counties, the treasurer of the ground water district first shall prepare a list containing the legal description, the assessor's parcel number, the name and last known address of the owner of record, and the amount of the assessment for each parcel. The sum assessed and charged against each parcel shall be entered by the ground water district as the operation and maintenance assessment of the (name of district) ground water district. On or before the third Tuesday of July of each year, the list shall be certified by the treasurer of the ground water district to the county auditor of the county in which the lands are located, and the county treasurer shall enter the same

upon the tax rolls as provided by law for the entry of taxes, against the land of each of the persons named in the list, together with the amounts thereof; and the same shall be subject to the same interest and penalties in case of delinquency as in the case of property taxes and shall be collected in the same manner as taxes and subject to the same right of redemption, and the lands sold for the collection of delinquency shall be subject to the same right of redemption, as the sale of land for property taxes.

When a ground water district includes lands in more than one (1) county, the treasurer of the ground water district shall prepare separate lists for the county assessor for each county. When a parcel lies partly in one (1) county and partly in another county, only the portion in a county shall be included on the list for that county. If the legal description of any parcel on any such list differs from the legal description as shown by the assessor's records, the assessor shall notify the district treasurer of the discrepancy and the district treasurer shall submit to the county assessor an addendum changing the description to conform with the assessor's records; provided, that where the discrepancy between the descriptions occurs because a portion of the parcel lies outside the district, no change in description shall be required, and the district assessments shall be effective only as to the portions of any parcel that are within district boundaries.

Assessments shall be due and payable on the date specified in the county's tax notice; shall be collected and accounted for by the county treasurer in the same manner as property taxes and shall be paid over to the ground water district treasurer together with any penalties or interest collected. The county shall enforce the collection of assessments in the same manner as it enforces the collection of taxes of the county, and failure to pay the assessment shall be subject to the same penalties. The collection of a ground water district's assessments by the county treasurer shall not make the district's obligations respecting any bond, contract, debt, or interest the obligation of the county.

42-5242. Entry of delinquent assessments -- Filing of delinquency list. (1) On or before the 15th day of January of each year the treasurer shall enter the amount of all delinquent assessments upon the assessment book, which entry shall be considered to be dated as of the first day of January. Such entry shall have the force and effect of a sale to the treasurer of the district as grantee in trust for the district of all property to which a lien has attached as a result of such unpaid assessments.

(2) The treasurer shall compile a list of such delinquency entries which shall contain the names of the persons or entities to whom the assessments were directed and the amount of such delinquent assessments together with the amount of the penalties to be added thereto. A certified copy of the delinquency list shall be filed with the county recorder of each county in which the properties affected by such delinquent assessments are located, and the treasurer shall then provide by certified mail a notice of delinquency to each ground water user having a delinquent assessment.

42-5243. Redemption and sale of property subject to delinquent assessments. The manner in which property subject to a lien for nonpayment of assessments may be redeemed, and if not redeemed, shall be sold as provided in sections 43-712, 43-715 through 43-721, 43-724 and 43-726, Idaho Code, to the extent that the provisions thereof are in keeping with the provisions of this chapter.

42-5244. Prohibition against participation in mitigation plan when subject to delinquent assessment. A ground water user who is delinquent in the payment of any assessment against his water use under this chapter is prohibited from being a participant in any mitigation plan until such delinquent assessment is paid in full. The district shall provide the director a report of such delinquent assessments at the first of each month for purposes of enforcement. The district shall inform the director immediately upon the payment of any such delinquent assessment. This section shall be enforced by the water master within water districts established under chapter 6 of this title, and by the director pursuant to sections 42-351 and 42-352, Idaho Code, in areas outside of such water district.

42-5245. Petition for annexation of land. Any ground water user may file with the board a petition in writing praying that the land and/or facilities listed under the ground water user's ground water right(s) may be annexed into the district. The petition shall contain a legal description of the lands and any other information the district may require, and the petitioner shall state under oath that petitioner holds the title to said lands. If the ground water user is a nonirrigator, the petition shall state if the ground water user is seeking to join the district solely to participate in the district's mitigation plan or other mitigation activities.

42-5246. Notice of petition. The board secretary shall cause a notice of the filing of such petition to be published in the manner of notices of elections. The notice shall state the filing of such petition, and the name of the petitioner, a description of the lands mentioned in the said petition, and it shall notify all persons interested in or that may be affected by such change of boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the lands mentioned should not be annexed to said district. The petitioner shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this chapter.

42-5247. Hearing on petition. The board, at the time mentioned in said notice or at such other time to which the hearing may be adjourned, shall hear the petition and all the objections thereto. The failure of any person to appear and object shall be taken as an assent on his part to a change of the boundaries of the district as requested in the petition, or to such a change thereof as will include a part of the lands.

42-5248. Assessments against annexed lands. (1) The board of directors may require, as a condition to the granting of an annexation petition, that the petitioners shall severally pay to the district such respective sums, as nearly as the same can be estimated, as said petitioners, or their grantors, would have been required to pay such district, had such lands been included in such district at the time it was originally formed, together with a proportionate share of the expenses of the district accrued since formation.

(2) If the petition seeks only to participate in a district mitigation plan, the board may require a proportionate sum of the mitigation expenses accrued since the district was originally formed to be paid as a condition to the granting of an annexation petition.

42-5249. Order accepting or rejecting petition. (1) If the board of directors deems a proposed annexation not to be in the best interests of the district to include the lands mentioned

in the petition, the board shall reject the petition. But if they deem it for the best interest of the district, the board may order the lands mentioned in the petition or some part thereof be annexed to the district.

(2) The order shall describe the lands to be annexed to said district and the board may cause a survey thereof to be made if deemed necessary. Thereafter the annexed land shall be subject to such assessments from time to time as the board of directors shall deem right under the circumstances, and such assessments shall be deemed to be assessments for benefits to said lands by reason of their annexation to said district. The directors shall state on their minutes at their next regular meeting which division and election precinct in said district the said lands so annexed shall be attached, and, if necessary, the board shall make an order redividing the district into divisions and election precincts, in the same manner and to like effect, as near as may be, as provided for that purpose on the formation of a district.

42-5250. Order to be recorded. Upon a change of the boundaries of a district becoming effective, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain a ground water district, as fully and to every intent and purpose as if the lands which are included in the district by the change of the boundaries had been included therein at the original organization of the district.

42-5251. Petition for exclusion of lands -- Lands may remain in the district for mitigation purposes. Any district member may file with the district board a petition requesting that the member's lands be excluded from the district. The petition may request that the lands either be excluded for all purposes or be excluded for all purposes except mitigation. The petition shall be signed by each petitioner, but need not be acknowledged. All costs incurred by the district in carrying out the exclusion proceeding shall be assessed as provided in section 42-5253, Idaho Code. A person purchasing land under a written contract shall be deemed to be the owner of that land for purposes of this section.

42-5252. Contents of petition -- Representations, certification and liability -- Waiver of benefits upon exclusion. (1) A petition for exclusion shall set forth or include the following:

(a) A description of the land and/or facilities of petitioner for which exclusion is requested, together with such evidence of ownership of the land and/or facilities as is satisfactory to the district board;

(b) A representation that no mortgagee or other person holds a lien of record in the county where the land for which exclusion is requested is located, for which the lienholder's consent to the exclusion is required or that, if such consent is required, the consent has been granted by the lienholder;

(c) If the member seeks exclusion for all purposes, an explicit written waiver and relinquishment, on a form provided by the board or otherwise, of all right to rely upon or be covered by any program, plan, activity or benefits of any kind provided by or through the district;

(d) If the member seeks to be excluded from the district for all purposes except mitigation, an explicit written waiver and relinquishment stating that the member

recognizes and agrees that:

(i) The member no longer will be entitled to vote or participate in the governance of the district, to nominate directors, or to serve as a director of the district except as specified in this chapter;

(ii) The member will remain subject to all assessments pertaining to the district's mitigation program(s) or plans;

(iii) The member will be entitled to receive no benefits of any kind from the district except those pertaining to mitigation purposes.

(e) Regardless of whether the exclusion will be for all purposes or for all except mitigation purposes, an explicit written statement, on a form provided by the board or otherwise, that the member recognizes and agrees that he will remain liable to the district, and subject to assessment, for any financial indebtedness the member may have to the district for indebtedness incurred before exclusion occurs.

(2) The district board shall return to the petitioner any petition not accompanied by the information required in subsection (1) of this section, and no further action shall be required of the board with respect to such petition. The petitioner shall be liable for any expenses or damages to lienholders or to other landowners or to the district resulting directly or indirectly from wrongful exclusion of lands by reason of untrue or incorrect statements in the petition.

(3) The petition for exclusion shall be signed by the member and be acknowledged in front of a notary public in the same manner as for deeds of land.

42-5253. Order of exclusion. (1) Upon receipt of a properly completed petition for exclusion, the district's board of directors, by resolution shall make an order forthwith excluding the lands described in the petition either for all purposes or for only those purposes not related to mitigation. No hearing is required prior to granting a petition for exclusion.

(2) At a minimum, the order of exclusion shall specify that:

(a) Lands excluded for all purposes shall not be a part of or be entitled to receive any benefits from the district;

(b) Lands excluded only for purposes not related to mitigation, shall continue to be part of the district for mitigation purposes only and shall be assessed for these purposes as provided under this chapter;

(c) Any excluded lands are subject to the requirements of section 42-5257, Idaho Code.

(d) When the petition is filed on or before December 1 in any calendar year, any assessment, other than those specified in section 42-5257, Idaho Code, against the land for any calendar year subsequent to the year in which the petition was filed shall not be valid and no lien for any such attempted assessment shall attach under section 42-5240, Idaho Code.

42-5254. Survey of land to be excluded. The board of directors may cause any survey to be made it deems necessary for the purpose of determining the change in the district by reason of an exclusion or proposed exclusion. If the land described in the petition is described in accordance with the public survey or in accordance with a plat approved, filed and recorded as provided by law, the cost of survey shall be borne by the district, otherwise the cost shall be borne by petitioner.

42-5255. Costs of excluding land. The costs of excluding any land as provided in this chapter shall be borne by the petitioner or petitioners except as provided in section 42-5254, Idaho Code. The board may require a deposit of the estimated costs before granting the petition. If the actual costs of completing the exclusion of the lands from the district are less than the amount deposited by the petitioner, the balance shall be refunded to the petitioner within fourteen (14) days after the final action for the exclusion is completed. If the actual costs of the exclusion of the lands is more than the deposit, the difference shall be paid to the district by the petitioner within fourteen (14) days after receipt of a statement to that effect from the district, and the board's order of exclusion shall not be effective until the difference is paid.

42-5256. Changes to be filed for record. The decision and order of the board of directors or the district court, in case of appeal, excluding the petitioner's land and changing the boundaries of such ground water district shall be filed for record in the recorder's office of the county or counties within which are situated the lands of such ground water district.

42-5257. Exclusion -- Effect -- Obligations outstanding -- Enforcement -- Payment -- Certificate. (1) Except as otherwise provided in this chapter, land and/or facilities excluded from any ground water district shall not thereafter be entitled to any of the rights and benefits of the district and shall be deemed to have fully relinquished all such rights and benefits.

(2) Land and/or facilities fully excluded from a district and those excluded only from nonmitigation purposes shall be subject to assessment and be otherwise chargeable for the payment and discharge of all obligations outstanding at the time of the entry of the exclusion order as fully as though the land had not been excluded. Such obligations shall include, but are not limited to, their proportionate share of any of the district's existing indebtedness that was incurred for a project or activity that: (a) provided a benefit to such lands prior to the exclusion and for which benefit the excluded lands remain indebted; or (b) continues to benefit such lands even after the exclusion. Where either of these circumstances exists, excluded lands shall remain a part of the district for the purpose of discharging such existing contract indebtedness, and otherwise shall be obligated to pay all regular and special assessments to retire such debt as if they had not been excluded. The district's board of directors may allow any debt or obligation against any excluded land and/or facility to be paid in installments or in any other manner the board deems equitable.

(3) All provisions which could be used to compel the payment by excluded land of its portion of the outstanding obligations had the exclusion not occurred, may be used to compel the payment on the part of the land of the portion of the outstanding obligations of the district for which it is liable.

(4) When any member obtaining the exclusion of land from a ground water district has paid to the district all of the debts and obligations of the district assessable, chargeable or allocable to the land and/or facility excluded, the district may issue its certificate of full payment executed by the president and secretary of the district, and acknowledged so that the certificate may be recorded in the records of the county wherein the land is situate.

42-5258. Reinstatement of lands. Where lands have been excluded from a ground water district they may be reinstated to the district by following the procedures provided in sections 42-5245 through 42-5250, Idaho Code, except that the board of directors, in its discretion, may

refuse for any reason to annex such lands to the district.

42-5259. Participation by nonmember in district solely for mitigation purposes. Upon written request from a ground water user who is not a member of a district, and regardless of whether such user is an irrigator, a district board of directors shall enter a contract with such nonmember pursuant to which the nonmember shall be allowed to participate fully in, and obtain all benefits of, any mitigation plan, purpose or activity the district currently has in force or is developing, provided that:

(1) The board finds that the plan is likely to be effective in mitigating the effects of such nonmember's ground water use, and that including the nonmember within the mitigation plan's coverage will not impair the plan's effectiveness as to district members;

(2) If the district's mitigation plan has been approved by the director, the board shall evaluate the contract request in accordance with any conditions of the district's mitigation plan which address equitable participation by ground water users who do not initially participate in such mitigation plan;

(3) Before the contract may be effective, the board may collect from the nonmember a payment adequate to compensate the district for the nonmember's proportional share of the costs the district already has incurred in developing and implementing the mitigation plan;

(4) The board may include in the contract a provision requiring the nonmember to pay a reasonable surcharge, either annually or on some other basis, to reimburse the district for such nonmember's proportional share of those past or future costs of operating the district attributable to formulating or implementing the mitigation plan or plans in which the nonmember is participating;

(5) The board may require the nonmember to provide security to assure the payment of all assessments and charges related to the contract;

(6) Nothing in this section shall be interpreted to limit the district's ability to enter into a contract with nonmembers pursuant to terms and conditions acceptable to both parties.

42-5260. Petition to annex state land. The state board of land commissioners may, by resolution duly passed at any meeting of such state board and recorded in its minutes, after due consideration in each specific case, authorize the governor of the state of Idaho, as chairman of the board of land commissioners, to sign a petition for the annexation of adjacent Idaho state lands to a district, or sign a petition to exclude such state lands from a district. The governor shall be deemed the owner of such state lands for the purpose of signing any petition herein authorized, with like effect as the owner of private lands.

42-5261. Petition for dissolution of district. Whenever a majority of the members entitled and qualified to vote in district elections so desire, they may petition the board to call a special election to submit to the qualified district electors a proposal to vote on the dissolution of the district. The petition shall set forth the reasons for such proposal. The petition for dissolution of the district shall state that all the district's outstanding legal and enforceable obligations of every nature whatsoever have been fully satisfied and paid or shall set forth facts showing reasonable grounds for the belief that the consent of the holders of all such district obligations can be obtained, or that the district is able to satisfy all those not consenting.

42-5262. Call for election on dissolution petition. It shall be the duty of the said board of directors, if it approves the dissolution petition, to call an election in accordance with section 34-106, Idaho Code, for the purpose of submitting to the qualified electors of the district the proposal for dissolution of the district.

42-5263. Notice of dissolution election. Notice of such election must be given by posting notices in five (5) public places in each election precinct in said district at least four (4) weeks before the date of said election and by the publication thereof for the same length of time in some newspaper published in each county in which the district or any part thereof is located. Such notice must specify the time and place of holding such election.

42-5264. Conduct of dissolution election. An election on a dissolution petition shall be held in all respects as near as practicable in conformity with the provisions of sections 42-5211 through 42-5213, Idaho Code. Those district members who are qualified to vote pursuant to section 42-5210(1), Idaho Code, shall be entitled to vote in the dissolution election. Upon the ballots used at such elections shall be written or printed "For Dissolution--Yes" and "For Dissolution--No," depending upon the nature of the proposal to be voted upon. Each member qualified to vote in the election shall cast a number of votes in proportion to that user's cubic feet per second of ground water rights.

42-5265. Canvass of returns on election for dissolution. On the first Monday after any such election the board of directors of the district shall meet at its usual place of meeting to canvass the returns, and when they shall have declared the result the secretary shall make full entry in his record.

42-5266. Petition for confirmation of dissolution by district court. Immediately after such election, in case the proposal has carried by a vote of members representing a majority of the ground water rights in the district, measured by cubic feet per second, the board shall file in the district court of the county in which the district's office is situated a petition praying in effect that the proceedings for the dissolution of the district be examined, approved and confirmed by the court. The petition shall set forth a full description of the lands formerly embraced within the district which is affected by the proceedings for the dissolution of such district, shall set forth generally the proceedings taken with reference to the petition and the election specified in the preceding sections of this chapter, and shall set forth fully every item of legal and enforceable indebtedness of the district with the name and residence of the holder thereof so far as known to the district secretary. In case any items of indebtedness are in the hands of unknown owners, they shall be so listed.

42-5267. Character of proceedings for confirmation. Dissolution proceedings shall be in the nature of a suit to quiet title with respect to so much of the land and/or facilities within the district as is affected by the proposed dissolution. In such proceedings the board shall be the parties plaintiff and the holders of any obligations of the district, including obligations which are or might become liens against any of the lands, are parties defendant. The provisions of section 5-326, Idaho Code, so far as it can be made applicable, shall govern generally the force and effect of the decree; provided, that the petition may be in form against all persons having interest in or

claim against the district, without naming them, and the summons, directed in the same way, and setting forth briefly the purposes of the petition, shall be by publication in the first instance or order of the court or a judge thereof and service on all parties interested, whether unknown owners, heirs, devisees, claimants or otherwise, shall be deemed complete at the time prescribed by the order for publication; and, unless answer be made by anyone interested in or making claim against said district default may be entered.

42-5268. Decree of confirmation. The court or judge shall set a day for the hearing of such petition and if it appears to the court from the proof that there is no such outstanding indebtedness of such district, or in case there is any such indebtedness outstanding that the holders thereof have filed no objections to the proceedings, or have filed their consent thereto, then the court shall enter its decree confirming the said proceedings, or may hear and determine and make decree as to any controversy. The election authorized by the preceding sections of this chapter shall have no force or effect to dissolve any district until confirmed by the decree of court as herein set forth.

42-5269. Dissolution without election -- Petition -- Conditions. (1) A ground water district may be dissolved without the holding of the election provided for in this chapter upon complaint or petition of parties holding and owning fifty percent (50%) or more, measured on the basis of cubic feet per second, of all the ground water rights within the district.

(2) It must be made to appear to the satisfaction of the court, by such complaint or petition, that any one (1) or more of the following conditions exist in or as to said district:

(a) The district has been abandoned, or for two (2) or more years last past has ceased to function, and there is little or no probability that it ever will or can function in the future;

(b) No useful purpose exists for the further continuance of the organization of the district; or

(c) There are insufficient members to pay for the costs of operating the district.

42-5270. Dissolution without election -- Parties. In such petition the petitioners or complainants shall be named as plaintiffs and the ground water district, and its directors, if any there are, and all persons having interest in or claim against the district, without naming them, shall be defendants. In the course of the proceedings of said case, and at any time before the final hearing thereof, any person interested may join in said case as a party plaintiff or as a party defendant, or any party interested may intervene in said case without order of the court.

42-5271. Dissolution without election -- Appointment of officer to marshal assets -- Decree. In the exercise of the jurisdiction given it by this act, the court shall have the power to appoint such referee, master, auditor, or receiver as may be considered necessary or proper to marshal the assets, and protect or preserve them, or ascertain the true condition of the district. After due hearing and consideration of the evidence submitted, the court shall enter a decree establishing the legal and equitable rights, interests and priorities of all parties and claimants, and may decree and direct the sale of all or any part of the properties of the district, whether real, personal or mixed, and direct the disbursement and application of the proceeds and the payment of the costs of the proceeding, and may dissolve the district, or may approve and confirm any settlement or agreement of settlement made between the parties interested in such district, if a

settlement is agreed upon by them, or may direct the payment of the indebtedness of the district in the order of priority determined and established by the decree, through assessments made as in the case of the dissolution of villages, or may grant such other or further relief as may be equitable or proper on the premises.

42-5272. Dissolution -- Appeal. Each party to any proceeding for dissolution of a district under this act shall have the right of appeal as in other civil cases.

42-5273. Consolidation of two or more ground water districts. Whenever the boards of directors of any two (2) or more ground water districts which together form a contiguous area determine that it is in the best interests of their respective districts that the districts be consolidated into a single ground water district and wish to proceed toward consolidation, the following procedures shall be followed:

(1) Each board shall petition its respective county commission in the counties identified by reference to section 42-5203, Idaho Code, for an order for an election to vote upon the question of such consolidation, which petition shall state in detail the terms upon which such consolidation is proposed to be made, and also shall transmit a copy of the petition to the department of water resources.

(2) Upon receiving the petitions, the department shall investigate questions affecting such proposed consolidation, and it shall make a report of the result of such investigations to each county commission with whom the petitions were filed not more than ninety (90) days after the department receives such petitions.

(3) After receiving the department's report, each county commission, if it deems it advisable, shall make an order fixing the time for an election in the districts to vote upon the question of proposed consolidation, which time shall be at the first available date in accordance with section 34-106, Idaho Code. Notice of the election shall be published as required for notice of election in section 42-5209, Idaho Code, and the boards of directors shall make all necessary arrangements for such election in their respective districts as provided in this title for other elections. The ballots shall be substantially as follows: "Consolidation--Yes." "Consolidation--No."

(4) The boards of directors shall canvass the returns of the election as provided in case of usual ground water district elections, and shall immediately thereafter transmit, by messenger or registered mail, certified abstracts of the result of said election in their respective districts to the clerk of the county commission. Within ten (10) days after such returns are received by the clerk, the county commission shall meet and canvass the same.

(5) If it appears that a majority of all the votes cast in each of said districts is "Consolidation--Yes." said board shall make an order, and enter the same of record in its minutes, establishing said consolidated district, giving its boundaries and designation, and in detail the terms under which the consolidation has been effected, and dividing said consolidated districts into three (3) divisions, and shall appoint some person qualified under this title, to act as director for each of said divisions of said district until the next general election for the election of officers, when a board of directors shall be elected as provided in section 42-5218, Idaho Code; provided however, that the organization of such district shall not take effect until the first Tuesday of the January following said order of its establishment. If the date provided by law for the election of directors shall come between the date of said order of the county commission and

the first Tuesday of January, then in making such order the board shall designate the board of directors of one (1) of the consolidated districts as a board to take charge of such election, and in that case a director shall be elected for each such division of the consolidated district, and no appointment of directors shall be made by the county commission.

(6) If, however, upon such canvass by the county commission, it appears that a majority of the votes cast in any district thus proposed to be consolidated is "Consolidation--No," then a record of that fact shall be entered in the same minutes of the county commission, and all the proceedings had under the preceding sections of this chapter shall be void.

42-5274. Procedure for consolidating one ground water district within another having substantially larger ground water diversions. In those cases where the cumulative total ground water diversions (excluding diversions under domestic and stockwater rights) in one (1) district are less than one-tenth (1/10) of such diversions in the larger district, and the boards of directors deem it for the best interests of the respective districts that the two (2) districts be consolidated into a single district, such boards may seek to consolidate according to the following procedure as an alternative to that described in section 42-5273, Idaho Code:

(1) The boards may propose a contract between them setting forth the terms and conditions of consolidating the district having the smaller ground water diversions into the other district, with the name and officers of the district having the larger ground water diversions still retained.

(2) Once both boards have approved the contract, it shall be submitted for approval by the members of the district having the smaller ground water diversions, together with the question of whether the two (2) districts shall be consolidated under the contract's terms, at a special election held for that purpose in such district. Notice of the election shall be published as required for notices of election for indebtedness. At the election should two-thirds (2/3) of the electors voting, vote in favor of the contract and the consolidation of the districts, the board of directors of the district having the smaller ground water diversions shall petition the board of directors of the district having the larger ground water diversions, which notice shall be published in a newspaper published within the county wherein the office of the board of directors of the district having the larger ground water diversions is situated, for such length of time and covering the same matters as required by a petition to annex land and/or facilities into a district.

(3) The law applicable to the annexation of land into a district after the petition is filed and notice given, shall apply to the consolidation, including an annexation of a smaller district into a larger district.

(4) After the board of directors of the district having the larger ground water diversions has approved the resolution or other decision including within its boundaries the district having the smaller ground water diversions, the board shall file a petition in the district court within the county wherein the principal office of its district is situated, asking for an approval and confirmation of the proceedings thereunder, and the same procedure shall be followed as provided in sections 43-406 through 43-408, Idaho Code, with reference to the confirmation of the proceedings within irrigation districts. In such petition the prayer shall be that the proceedings, together with the contract, may be examined and approved by the court; that after the confirmation of said proceedings the order of the board of directors admitting the smaller district into the district having the larger ground water diversions, containing a description of all the land properly certified by the secretary of the district, shall be filed for record in the office of

the recorder of both counties with which the petition was filed.

42-5275. Exercise of powers under this chapter by irrigation districts organized under title 43. Any irrigation district organized and operating pursuant to title 43, Idaho Code, may exercise the authorities provided under this chapter to the extent doing so does not conflict with any provision of title 43, Idaho Code.

42-5276. Inclusion of irrigation districts organized under title 43. Where the water supply for lands is ground water provided by an irrigation district established under title 43, Idaho Code, and such lands are included in and subject to assessment by the irrigation district, such lands shall be included in a ground water district organized under the provisions of this chapter only if the board of the irrigation district serves notice in the same manner as that provided for nonirrigators in section 42-5214(2) and (3), Idaho Code.