

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF MODIFYING)	
THE BOUNDARIES OF THE)	
AMERICAN FALLS GROUND)	FINAL ORDER MODIFYING THE
WATER MANAGEMENT AREA)	BOUNDARIES OF THE AMERICAN
_____)	FALLS GROUND WATER
)	MANAGEMENT AREA

The Director of the Department of Water Resources (“Director” or “Department”) on August 3, 2001, entered an order designating the American Falls Ground Water Management Area (“American Falls GWMA”) pursuant to Idaho Code § 42-233b. The Director made the designation pursuant to his statutory authorities to administer rights to the use of ground water in a manner that recognizes and protects senior priority water rights in accordance with the directives of Idaho law. The severe drought conditions in 2001, which caused the Director to designate the ground water management area, have continued to exist across the Snake River Basin and, therefore, administration of the ground water rights is still necessary. However, Water District Nos. 120 and 130 have been established for the purpose of administration of water rights, and these districts overlay portions of the GWMA located in Administrative Basins 35, 36, 41, and 43, which is most of the GWMA. Thus, the need for the GWMA no longer exists in those portions of the GWMA overlain by Water District Nos. 120 and 130, and its continued existence within the Water District boundaries may cause confusion in the administration of water rights. Therefore, the Director enters the following Findings of Fact, Conclusions of Law and Order modifying the boundaries of the American Falls GWMA.

FINDINGS OF FACT

1. On August 3, 2001, the Director established the American Falls GWMA pursuant to Idaho Code § 42-233b. The Director designated the American Falls GWMA due to concerns about the depletionary effects of ground water withdrawals under junior priority water rights and the availability of water supplies for senior priority water rights from connected surface and ground water sources during the severe drought conditions experienced across the Snake River Basin. The Director issued the order in response to his recognition that he has a responsibility, subject to the confines of existing knowledge and technology, to exercise his statutory authorities to administer water rights for the use of ground water in a manner that recognizes and protects senior priority surface water and ground water rights in accordance with the provisions of Idaho law. In establishing the American Falls GWMA, the Director stated his intent to curtail diversions under certain junior ground water rights that caused significant depletions to

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hydraulically connected surface water sources thereby causing injury to senior priority water rights.

2. Findings of Fact one through seven of the Director's order of August 3, 2001, describe the general hydrologic features of the Eastern Snake River Plain Aquifer ("ESPA") and the level of confidence that the Director places upon simulations using the Department's calibrated computer model of the ESPA and are incorporated in this order by reference.

3. On January 8, 2002, the SRBA District Court issued an order authorizing the interim administration of water rights by the Director in all, or parts, of Administrative Basins 35, 36, 41 and 43 overlying the ESPA, pursuant to chapter 6, title 42, Idaho Code, based upon a determination that such interim administration is necessary to protect senior water rights.

4. On February 19, 2002, the Director entered an order pursuant to Idaho Code § 42-604 creating the American Falls Area Water District, designated as Water District No. 120, and the Thousand Springs Area Water District, designated as Water District No. 130.

7. The boundaries of Water District Nos. 120 and 130 encompass the area over the ESPA covered by the American Falls GWMA in Administrative Basins 35, 36, 41 and 43.

CONCLUSIONS OF LAW

1. The Director has a statutory responsibility to administer the use of ground water in the state so as to protect prior surface and ground water rights and yet allow full economic development of the state's underground water resources in the public interest. See Idaho Code §§ 42-226, 42-237a.g, and 42-602.

2. The Director has general responsibility for direction and control over the distribution of water in accordance with the prior appropriation doctrine as established by Idaho law within water districts to be accomplished through watermasters supervised by the Director, as provided in chapter 6, title 42, Idaho Code and IDWR regulations.

3. The establishment of Water District Nos. 120 and 130, which includes the area within the boundaries of the American Falls GWMA over the ESPA located in Administrative Basins 35, 36, 41, and 43, provides the Director with the more comprehensive water administration authorities available under chapter 6, title 42, Idaho Code. These authorities together with the "Rules for Conjunctive Management of Surface and Ground Water Resources" (IDAPA 37.03.11) make it unnecessary to retain the current boundaries of the American Falls GWMA.

4. The Director should modify the boundaries of the American Falls GWMA area because it is no longer necessary to retain the current boundaries for water administration purposes.

5. Because publication of notice in two (2) consecutive weekly issues of one or more newspapers of general circulation in the area is required by Idaho Code § 42-233b upon the designation of a ground water management area, the Director will provide similar published notice of the modification of the boundaries of the American Falls GWMA.

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

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the boundaries of the American Falls Ground Water Management Area designated by order of the Director on August 3, 2001, are hereby modified as depicted on the map appended hereto as Attachment A and incorporated herein by reference.

DATED this 29th day of August 2003.



KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of August, 2003, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Tim Deeg
Aberdeen/American Falls GWD
2957 Deeg Road
American Falls, Idaho 83211

Ray Duffin
Aberdeen/American Falls GWD
3152 West 2000 South
Aberdeen, Idaho 83210

Kevin Michaelson
Aberdeen/American Falls GWD
2590 Quigley
American Falls, Idaho 83211

Richard Meyer
Aberdeen/American Falls GWD
17 North Main Street
Aberdeen, Idaho 83210

Craig Evans
Bingham GWD
1523 West 300 North
Blackfoot, Idaho 83221

Scott Clawson
Bingham GWD
2754 West 3000 North
Rexburg, Idaho 83440

Neal Powell
Bingham GWD
252 East 100 North
Blackfoot, Idaho 83221

Gaylen Van Orden
Bingham GWD
682 South 1400 West
Pingree, Idaho 83262

Bill Taylor
Bonneville-Jefferson GWD
PO Box 51121
Idaho Falls, Idaho 83405

Stephanie Mickelsen
Bonneville-Jefferson GWD
1050 West Riverview Drive
Idaho Falls, Idaho 83401

Dane Watkins
Bonneville-Jefferson GWD
385 River Parkway
Idaho Falls, Idaho 83402

Gay Walter
40 North 400 West
Blackfoot, Idaho 83221

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN RE: PETITIONS OF NORTH SIDE CANAL)
COMPANY, TWIN FALLS CANAL COMPANY,)
AND CLEAR SPRINGS FOODS, INC., FOR)
ESTABLISHMENT OF GROUND WATER)
MANAGEMENT AREAS IN ADMINISTRATIVE)
BASINS 35 AND 36)
_____)
_____)

**ORDER AUTHORIZING
DISCOVERY**

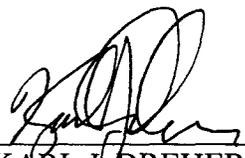
This matter was commenced through the filing of petitions by the North Side Canal Company, the Twin Falls Canal Company, and Clear Springs Foods, Inc. ("Petitioners") requesting the Department of Water Resources ("Department") to establish ground water management areas, pursuant to Idaho Code § 42-233b, in the areas encompassed by Administrative Basins 35 and 36.

On August 10, 2001, Respondents Idaho Ground Water Appropriators, Inc., Jerome Cheese Company, Milk Producers of Idaho, Inc., Unit Three Water Users Association, Aberdeen-American Falls Ground Water District, and Bingham Ground Water District ("Respondents"), through their attorneys, Givens Pursley LLP, filed with the Department pleadings titled "Ground Water Users' Response To Surface Water Users' Petitions To Establish Ground Water Management Areas," and "Respondent Ground Water Users' Motion For Discovery Order," ("Motion"). Respondents filed the Motion pursuant to Rules 520 and 521 of the Department's Rules of Procedure, IDAPA 37.01.01.520 and 37.01.01.521.

The Director hereby authorizes the parties to engage in discovery commencing with the date of this order. Because the hearing in this matter presently is set for August 28, 2001, any discovery conducted by the parties must be completed on an expedited schedule. The parties shall serve any discovery requests in this proceeding by August 17, 2001. All discovery, including answers to any discovery requests served, shall be completed by August 24, 2001.

In accordance with Rule 520, the scope of discovery shall be governed by Rule 26(b) of the Idaho Rules of Civil Procedure, unless otherwise provided by statute, rule or order of the Director.

DATED this 12th day of August 2001.



KARL J. DREHER
Director

ORDER AUTHORIZING DISCOVERY

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Larry Elliott
Aberdeen/American Falls GWD
2988 W 1400 S
Aberdeen, Idaho 83210

Douglas Grant
Magic Valley GWD
724 E 600 N
Rupert, Idaho 83350

Marc Foster
Aberdeen/American Falls GWD
3018 W 1700 S
Aberdeen, Idaho 83210

Phyllis Beard
Amalgamated Sugar
Box 127
Twin Falls, Idaho 83303-0127

Brock Driscoll
Aberdeen/American Falls GWD
2250 S 3200 W
Aberdeen, Idaho 83210

Jon Bowling
Idaho Power Co.
PO Box 706
Boise, Idaho 83707

Randy Polatis
Bingham GWD
453 S 1100 W
Pingree, Idaho 83262

Lynn Carlquist
North Snake GWD
1092 S 2500 E
Hazelton, Idaho 83335

Calvin Lloyd
Bingham GWD
383 N 840 W
Blackfoot, Idaho 83221

Larry Cope
Clear Springs Trout
PO Box 712
Buhl, Idaho 83316

Dean Stevenson
Magic Valley GWD
575 W 600 N
Paul, Idaho 83347

Dick Elliot
Little Sky Farms
HC 60 Box 1745
Bliss, Idaho 83314

Orlo Maughan
Magic Valley GWD
900 N 450 W
Rupert, Idaho 83350

Dwayne Knigge
Banbury Pipe Co.
4799A River Road
Buhl, Idaho 83316

Gary Lemmon
Blind Canyon Aquaranch
2775 S 1050 E
Hagerman, Idaho 83332

Gary Bowman
Basin 37 Ground Water Users
216 S 850 E
Dietrich, Idaho 83324

Rex Minchey
Jerome Cheese
47 W 100 S
Jerome, Idaho 83338

Mike Greene
Blue Lakes Trout Co.
PO Box 1237
Twin Falls, Idaho 83303-1237

Dean Stevenson
Magic Valley GWD
575 W 600 N
Paul, Idaho 83347

PJ Greene
Blue Lakes Trout Co.
PO Box 1237
Twin Falls, Idaho 83303-1237

Dan Temple
A & B Irrigation
PO Box 675
Rupert, Idaho 83350

Harold Mohlman
A & B Irrigation
PO Box 675
Rupert, Idaho 83350

Cindy Yenter
Water District 130
1341 Fillmore St. Ste 200
Twin Falls, Idaho 83301

Arie Roeloff
Southfield Dairy
3340 S 1600 E
Wendell, Idaho 83355

Adrian Boer
Canyonside Dairy
472 S 200 W
Jerome, Idaho 83338


Victoria Wigle
Administrative Assistant to the Director
Idaho Department of Water Resources

Modified American Falls Ground Water Management Area

