



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 14, 2002

Re: Notice of Order Authorizing Interim Administration and Notice of Hearings
Regarding Creation of Water Districts

Dear Water Right Holder:

The records of the Idaho Department of Water Resources ("IDWR") show that you received a copy of the State of Idaho's Motion for Order of Interim Administration in the Eastern Snake Plain Aquifer that was filed with the Snake River Basin Adjudication ("SRBA") Court on November 19, 2001. This motion and all supporting documentation were mailed to potentially impacted water right holders on November 23, 2001. The mailing notified users of: (1) the motion filed with the court; (2) the intent of the Director of IDWR to create water districts within all or portions of IDWR administrative basins 35, 36, 41, and 43 overlying the Eastern Snake Plain Aquifer ("ESPA"); (3) a public information meeting that was held on December 3, 2001 in Declo, Idaho, and; (4) a hearing on this matter scheduled by the SRBA District Court on January 8, 2002.

On January 8, 2002, the SRBA District Court held a hearing on the above referenced motion and issued an order authorizing interim administration as requested in the State's motion. Accordingly, the Director of IDWR intends to proceed with the creation of water districts within the authorized interim administrative area in accordance with Idaho law. Completion of this process requires that notice be given to water users within the affected area advising them of the proposed action and associated hearings.

Enclosed are two documents: (1) Notice of Hearing in the Matter of the Proposed Creation of Water Districts within the Eastern Snake Plain Aquifer in IDWR Administrative Basins 35, 36, 41, and 43; and (2) Order Granting State of Idaho's Motion for Order of Interim Administration.

Please note the hearing dates, times, and locations provided in the attached Notice of Hearing. Also, please note the proposal to create two water districts within the area shown on the map accompanying the enclosed notice. This notice is being sent to all water right holders of record, except those whose use is solely for domestic and/or stock water purposes, with points of diversion located within the proposed water districts.

All water right holders receiving this notice are encouraged to attend the hearings. The Department will present more comprehensive information about the proposed districts at the hearings. The hearings will provide a forum for comment and an opportunity for affected water right holders to ask questions. We look forward to receiving your input at the hearings.

Sincerely,

Tim Luke
Manager, Water Distribution Section

Enclosures

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

**IN THE MATTER OF THE PROPOSED CREATION)
OF A WATER DISTRICT IN THE AMERICAN)
FALLS AREA WITHIN THE EASTERN SNAKE)
PLAIN AQUIFER IN ADMINISTRATIVE BASINS)
35 AND 41,)**

NOTICE OF HEARINGS

and)

**IN THE MATTER OF THE PROPOSED CREATION)
OF A WATER DISTRICT IN THE THOUSAND)
SPRINGS AREA WITHIN THE EASTERN SNAKE)
PLAIN AQUIFER IN ADMINISTRATIVE BASINS)
36 AND 43.)**

The Director of the Idaho Department of Water Resources ("Director") is authorized to divide the state into water districts for the purpose of distributing water among appropriators under the laws of the State of Idaho. The authority to create water districts applies to those streams, or other water sources including ground water, for which the priorities of appropriation have been adjudicated by court decree. During a water rights adjudication, the district court is authorized by Section 42-1417, Idaho Code, to approve interim administration of the water rights by the Director if reasonably necessary to protect senior water rights. The district court may permit the distribution of water pursuant to chapter 6, title 42, Idaho Code, in accordance with partial decrees entered by the court or in accordance with a Director's Report as modified by the court's order.

On November 19, 2001, the State of Idaho filed a motion with the Snake River Basin Adjudication ("SRBA") District Court requesting an order authorizing the interim administration of water rights by the Director in all or parts of Basins 35, 36, 41, and 43, overlying the Eastern Snake Plain Aquifer ("ESPA"). On January 8, 2002, the SRBA District Court held a hearing on the State's motion and issued an order authorizing the Director to distribute water pursuant to chapter 6, title 42, Idaho Code, in accordance with the Director's Reports and the partial decrees that have superseded the Director's Reports within all or parts of Administrative Basins 35, 36, 41, and 43, overlying the ESPA. The Director now proposes to create two permanent water districts; one in the American Falls area within portions of Administrative Basins 35 and 41 and the other in the Thousand Springs area within portions of Administrative Basins 36 and 43 overlying the ESPA, as shown on the map appended as Attachment A.

NOTICE IS HEREBY GIVEN, pursuant to Section 42-604, Idaho Code, that the Director of the Department of Water Resources will conduct two separate public hearings regarding the proposed creation of the two water districts as follows:

Hearing for Proposed Water District within Basins 35 and 41 -
1:00 p.m., February 4, 2002, at the Blackfoot Civic Center
132 South Shilling, Blackfoot, Idaho

Hearing for Proposed Water District within Basins 36 and 43 -
7:00 p.m., February 4, 2002, at the Jerome High School Auditorium
104 N Tiger Dr., Jerome, Idaho


The Director will serve as the hearing officer for both hearings. Persons attending a hearing will be provided an opportunity to make an oral presentation regarding the creation of the proposed district. Written comments may be submitted to the Director at the hearing or at any time prior to the close of the written comment period on February 14, 2002. Written comments not presented at the hearing should be sent to the Director, Department of Water Resources, 1301 North Orchard, Boise, Idaho, 83706. The written comments should identify the proposed district to which the comments relate.

Each hearing will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. Should you require special accommodations in order to attend, participate in, or understand the hearing, please contact the Department of Water Resources, 1301 North Orchard, Boise, Idaho, 83706, telephone number (208) 327-7900, at least ten (10) days prior to the hearing.

Upon creation of the water districts, a meeting of the holders of water rights within each district will be held during the spring of 2002 for the purpose of electing a watermaster and conducting other business necessary to initiate operation of the district. The Director proposes that the water district watermasters be responsible for certain duties under the direction and supervision of the Director including: (1) curtailment of illegal diversions; (2) measurement and reporting of diversions under water rights; (3) enforcement of provisions of stipulated agreements between the holders of senior priority surface water rights and junior priority ground water rights; and (4) curtailment of out-of-priority diversions that are not included in a stipulated agreement or mitigation plan approved by the Director and that are determined by the Director to be causing injury to senior priority water rights.

The Director proposes that all water rights with points of diversion located within the boundaries of the proposed districts be included in the districts, except those used solely for domestic and/or stock water purposes. Permitted and licensed rights not decreed in the SRBA and/or not included in SRBA Director's reports are subject to inclusion within the proposed water districts unless used solely for domestic and/or stock water purposes. This notice of hearing has been sent to all water right holders of record in accordance with these criteria.

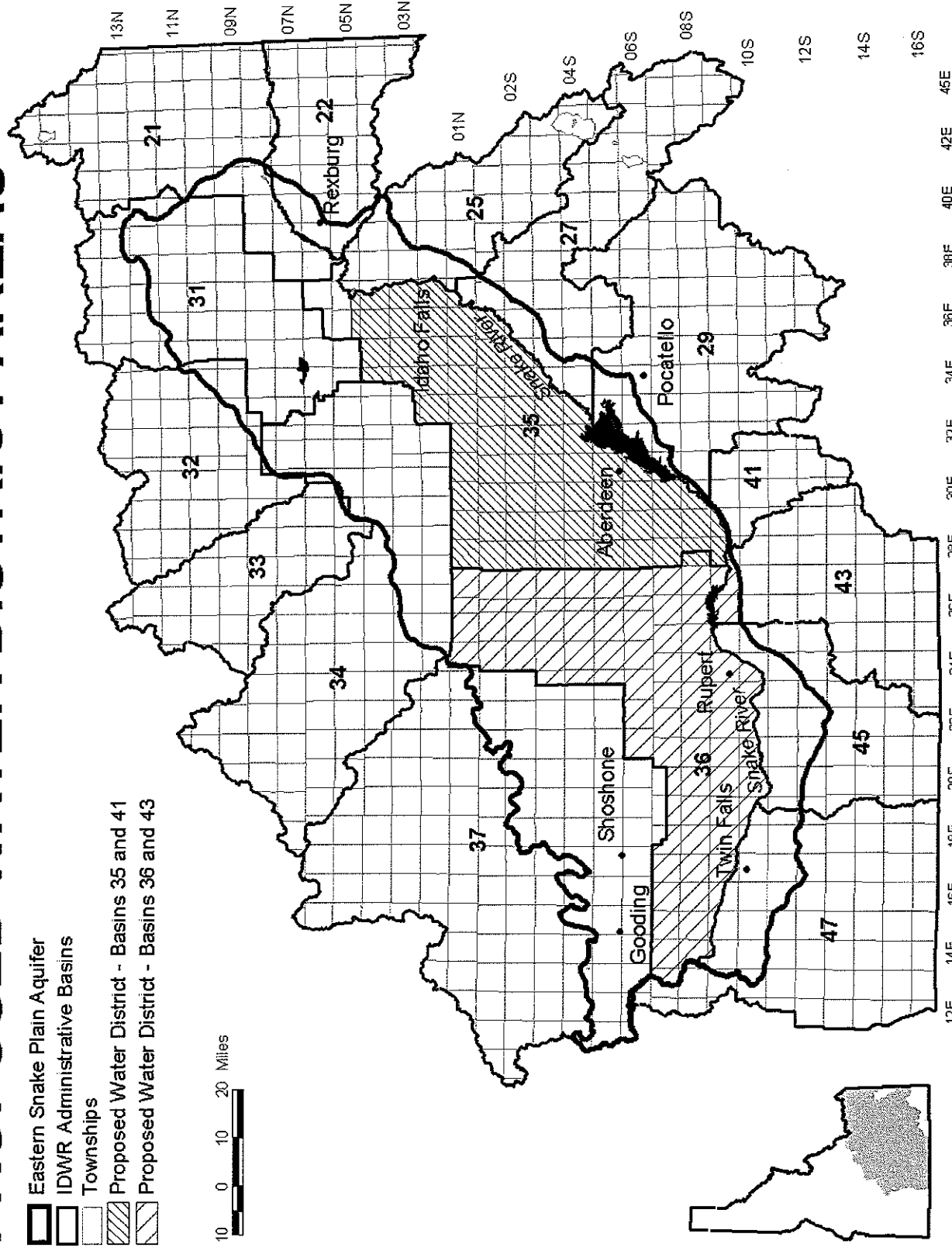
Dated this 11TH day of January, 2002


for Karl J. Dreher
Director

PROPOSED WATER DISTRICT AREAS

-  Eastern Snake Plain Aquifer
-  IDWR Administrative Basins
-  Townships
-  Proposed Water District - Basins 35 and 41
-  Proposed Water District - Basins 36 and 43

10 0 10 20 Miles

State of Idaho
County of Twin Falls ss.
I hereby certify the foregoing to be a full,
true and correct copy of the original on
file in the above entitled action.

ROBERT S. FORT
CLERK OF THE DISTRICT COURT

By Robin Glass
DEPUTY CLERK

2002 JAN -8 PM 3:19

FILED
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

| | | |
|----------------|---|--|
| In Re SRBA |) | Subcase 92-00021 |
| |) | (Interim Administration) |
| Case No. 39576 |) | |
| |) | ORDER GRANTING STATE OF IDAHO'S |
| |) | MOTION FOR ORDER OF INTERIM |
| |) | ADMINISTRATION |

On November 19, 2001, the State of Idaho filed a *Motion for Order of Interim Administration and Motion for Order Expediting Hearing*, pursuant to I.C. § 42-1417, seeking administration of water rights located in all or portions of Administrative Basins 35, 36, 41, and 43, in accordance with the Director's Reports for those water rights or in accordance with partial decrees that have superseded the Director's Reports.

On November 19, 2001, the Court issued its *Order Setting Hearings on State of Idaho's Motion for Order of Interim Administration and Motion for Order Expediting Hearing*, I.C. § 42-1417, AOI 6f(2) (Subcase 92-00021), which established the service procedures and hearing schedule for the State of Idaho's *Motion*.

On November 23, 2001, the State of Idaho served copies of the *Motion* and supporting briefing and affidavits and the *Order Setting Hearings on State of Idaho's Motion for Order of Interim Administration and Motion for Order Expediting Hearing*, I.C. § 42-1417, AOI 6f(2) (Subcase 92-00021) on all affected parties by U.S. Mail.¹ The State of Idaho filed the Certificate of Service with the Court on November 26, 2001.

¹ The "affected parties" are claimants in Basins 35, 36, 41, and 43 with water rights within the area shown on Attachment 1, other than small domestic and stockwater rights as defined under Idaho Code §§ 42-111 and 42-1401A(11).

On January 8, 2002, the Court held a hearing on the State of Idaho's *Motion*.

This Court, having heard the *Motion* and reviewed the pleadings, makes the following findings of fact and conclusion of law and enters its *Order* as follows:

A. FINDINGS OF FACT

1. The State of Idaho has complied with the service requirements of I.C. § 42-1417(2)(b) and this Court's *Order Setting Hearings on State of Idaho's Motion for Order of Interim Administration and Motion for Order Expediting Hearing; I.C. § 42-1417, AO1 6f(2)* (Subcase 92-00021) (Issued November 19, 2001).
2. The available water supply in all or portions of Administrative Basins 35, 36, 41, and 43 is currently not adequate to satisfy some senior priority water rights and is projected in the future to be insufficient, at times, to satisfy these water rights.

B. CONCLUSION OF LAW

1. Interim administration in those portions of Administrative Basins 35, 36, 41, and 43 shown on Attachment 1 in accordance with the Director's Reports and the partial decrees for water rights is reasonably necessary to protect senior water rights in accordance with the prior appropriation doctrine as established by Idaho law.

C. ORDER

The State of Idaho's *Motion for Interim Administration* is hereby GRANTED. Pursuant to Idaho Code § 42-1417, the Court authorizes distribution of water pursuant to chapter 6, title 42, Idaho Code in accordance with the Director's Reports and the partial decrees that have superseded the Director's Reports, in those portions of Administrative Basins 35, 36, 41, and 43 shown on Attachment 1.

This *Order* shall continue in force and effect until modified or dissolved by this Court.

DATED this 27th day of January 2002.

R. Burdick
ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

State of Idaho
County of Twin Falls ss
I hereby certify the foregoing to be a full,
true and correct copy of the original on
file in the above entitled action.

ROBERT S. FORT
CLERK OF THE DISTRICT COURT

By Robbin Slatt
DEPUTY CLERK

ATTACHMENT 1

PROPOSED AREA OF INTERIM ADMINISTRATION

