

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED

JUN 22 2005

IN THE MATTER OF APPOINTMENT OF A)
WATERMASTER IN WATER DISTRICT 11-F)
THOMAS FORK AND TRIBUTARIES)

ORDER

Department of Water Resources
Eastern Region

The Director of the Department of Water Resources ("Department"), being charged with the duty of protecting vested water rights, enforcing certain statutes of the State of Idaho, and the rules of the Department, has received a petition for appointment of a watermaster from water users in Water District No. 11-F.

Based on the Department's investigation and understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On May 9, 2005, the Department received the 2005 Adopted Budget and Resolutions for Water District 11-F, Thomas Fork and tributaries. Annual meeting notes were attached to the Adopted Budget indicating that Sherwin Mangum would be watermaster for the water district in 2005. Mr. Mangum was the water district watermaster in 2004. The water district meeting minutes provided no additional information and did not indicate whether a water district advisory committee or district secretary was elected.

2. During April and May of 2005, Department representatives made numerous attempts to contact the watermaster regarding questions about ownership of water rights and water right deliveries within the water district. Mr. Mangum could not be reached. On May 16, 2005, the Department sent a certified letter to Mr. Mangum asking him to contact the Department. Mr. Mangum did not respond to the certified letter. In late May of 2005, the Department contacted the water district secretary, Rodney Boehme, to inquire about Mr. Mangum's status and to advise that Mr. Mangum had not responded to the Department's correspondence or phone calls. Mr. Boehme was listed as the water district secretary in the 2005 Adopted Budget report.

3. On or about May 31, 2005, Department staff spoke with Lon Tueller, a water user in Water District 11-F who represented that he had been elected chairman of the board of the Fawsett Irrigation Company. Mr. Tueller represented that the Fawsett Irrigation Company had hired Mr. Mangum as watermaster at its annual meeting but that there had been no formal election of a water district watermaster. Mr. Tueller indicated that the Fawsett Irrigation Company is the organization that has provided for watermaster services and delivery of water rights on the Thomas Fork. It is the Department's understanding based on this conversation with Mr. Tueller that many users in the Thomas Fork area view the irrigation company and the water district as the same entity. The Department understands that there may be some concern among

local water users regarding the functions and responsibilities of a water district, and the difference between a water district and a canal company.

4. On June 2, 2005, the Department received a letter signed by four of five "Board Members" requesting a change in watermaster for Water District 11-F. Rodney Boehme also signed the letter but no title was associated with his name. The letter included a Petition For Watermaster's Services signed by Lon Tueller of Geneva, Idaho. Mr. Tueller has a valid ownership interest in several water rights located within Water District 11-F. Mr. Tueller also signed the letter requesting the watermaster change. Mr. Tueller signed the letter as the President of the Board. The Petition for Watermaster Services requested appointment of Joel Teuscher of Geneva, Idaho. The petition sought to have Mr. Teuscher appointed beginning June 6, 2005 because the irrigation season had already started. Mr. Teuscher signed a Watermaster Oath of Office form before a notary public. The Oath of Office form was submitted to the Department with the Petition for Watermaster's Services and the signed letter from the Water District 11-F water users.

5. On June 9, 2005, a Department staff member met with Lon Tueller, Joel Teuscher, Rodney Boehme and several other water users to review water rights and inventory water diversions within Water District 11-F. The Department believes that Mr. Teuscher is suitable for watermaster appointment. The Department will provide the water district with an updated water right delivery list, and will work with the district on updating water right ownership records.

6. The lack of detail provided in the 2005 water district meeting minutes, the discussion with Mr. Tueller on or about May 31, 2005, and recent inquiries to Department staff from other area water users, has raised concerns among Department staff regarding whether or not the 2005 water district meeting was properly conducted, and/or if a watermaster was elected and a budget properly adopted. There is also some question if water users in the district were properly notified of the annual meeting.

CONCLUSIONS OF LAW

1. Section 42-605(8), Idaho Code provides as follows:

Should said (water district) meeting not be held, or should said watermaster not be elected, ... then the director of the department of water resources is authorized to appoint a watermaster and fix the watermaster's compensation.

2. Section 42-605(11), Idaho Code provides as follows:

The director shall call a special meeting of the water users of a district upon receipt of a written request for such meeting by a majority of the members of the water district advisory committee, a written petition from water users representing thirty percent (30%) or more of the votes cast at the last regular annual meeting, a written request from the watermaster, or on the director's own motion if the director determines a meeting is necessary to address matters that cannot be delayed until the next regular annual meeting. Notice of the time, place and purpose of the special

meeting shall be given by the director in the manner provided in Section 42-605(2), Idaho Code.

3. Section 42-605(2), Idaho Code requires that the Director send notice of any annual or special water district meeting at least 30 days prior to said meeting date.
4. The Director should call a special meeting of Water District 11-F for the purpose of electing a watermaster, adopting a water district budget and setting the watermaster's compensation, election of a water district advisory committee, and adoption of resolutions concerning the operation of the district.
5. The Director should appoint Joel Tuescher watermaster of Water District 11-F until formerly elected at a special meeting of the water district. The watermaster's salary should be fixed at a rate of fifteen dollars (\$15) per hour unless modified by the users of Water District 11-F when adopting a budget at the special water district meeting.

ORDER

IT IS THEREFORE HEREBY ORDERED as follows:

1. A special meeting of Water District 11-F, Thomas Fork and tributaries, is scheduled to provide opportunity for the water right holders in the water district to formerly elect a watermaster, adopt a water district budget, and select an advisory committee. The meeting is scheduled as follows:

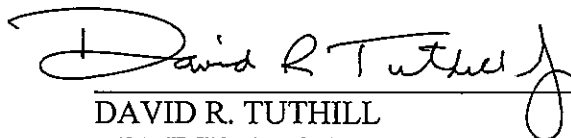
Date: July 15, 2005

Time: 2:00 p.m.

Location: Geneva School, Geneva, ID

2. The Director of the Idaho Department of Water Resources appoints Joel Tuescher as watermaster of Water District 11-F, Thomas Fork and tributaries, effective as of the date of this order and continuing for the remainder of the 2005 irrigation season, unless the water users present at the special water district meeting on July 15, 2005 elect a different watermaster.
3. The compensation of the watermaster is hereby fixed at a rate of fifteen dollars (\$15) per hour. This rate is effective as of the date of this order, and shall continue until the date of the special water district meeting scheduled on July 15, 2005.

Dated this 17th day of June, 2005.



DAVID R. TUTHILL
ADMINISTRATOR
WATER MANAGEMENT DIVISION