

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISSOLVING)	FINAL MORATORIUM ORDER AND
THE BANCROFT-LUND GROUND)	FINAL ORDER DISSOLVING THE
WATER MANAGEMENT AREA)	BANCROFT-LUND GROUND
DESIGNATION)	WATER MANAGEMENT AREA
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The Director of the Department of Water Resources ("Director" or "Department") on October 21, 1991, entered an order designating the Bancroft-Lund Ground Water Management Area ("Bancroft-Lund GWMA") pursuant to Idaho Code § 42-233b. The Director created the ground water management area to administer ground water use and to limit the appropriation of ground water in a manner that recognizes and protects senior priority water rights in accordance with the directives of Idaho law.

In addition to limiting further appropriation, administration of existing decreed water rights in the Bancroft-Lund area was necessary. On May 26, 1995, the Department issued a Preliminary Order forming Water District No. 13-T, Bancroft-Lund. The order became final on or about August 14, 1995. The order creating Water District No. 13-T required measurement and reporting of diversions from ground water. The order also stated that "the watermaster shall not curtail the use of water under any junior priority ground water right ... [u]ntil the information required by Conclusion of Law No. 15 of the Director's Report in Civil Case No. 2919 is available as determined by the director" Conclusion of Law No. 15 of the Director's Report stated that the director could require watermaster regulation or other remedies if data demonstrates that ground water withdrawals are injuring senior surface water users in the Bear River Basin or are causing a decline in ground water levels below the reasonable pumping level.

Because of the creation of Water District No. 13-T, existing water rights can be administered through the water district instead of the ground water management area. Future appropriations of water can be limited by moratorium rather than through a ground water management area. The continued existence of the ground water management area may cause confusion in the administration of water rights. Therefore, the Director enters the following Findings of Fact, Conclusions of Law, Moratorium Order, and Order Dissolving the Bancroft-Lund GWMA designation.

9. In August 1995, the Department created Water District No. 13-T, Bancroft-Lund. The water district boundaries are identical to the boundaries of the Bancroft-Lund GWMA. The water district includes all holders of water rights authorizing diversion of ground water for irrigation within its boundaries.

10. Water District No. 13-T provides an organizational structure for measurement and reporting of diversions and water use for existing ground water rights within the water district. In times of shortage, the watermaster of the water district may also administer and regulate the water rights to protect senior priority water rights.

CONCLUSIONS OF LAW

1. The Director has a statutory responsibility to administer the use of ground water in the State of Idaho in a manner that protects prior surface and ground water rights and yet allows 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 rules.

3. The establishment of Water District No. 13-T, which includes all of the area included within the boundaries of the Bancroft-Lund GWMA, provides the Director with the water administration authorities available under chapter 6, title 42, Idaho Code. Despite the initial statements in the management policy that a ground water management area is the preferred method of management, the creation of the water district initiated another management direction independent of the ground water management area. The authorities granted through the laws governing water districts together with the "Rules for Conjunctive Management of Surface and Ground Water Resources" (IDAPA 37.03.11) make it unnecessary to retain the Bancroft-Lund GWMA designation for the administration of existing water rights.

4. Prior surface and ground water rights will be injured if the flows of streams, rivers, and ground water underflow in the Bancroft-Lund area are reduced and ground water levels are lowered by junior priority ground water diversions.

5. To prevent injury to senior priority water rights, further appropriations of ground water in the Bancroft-Lund area should be limited to non-consumptive, municipal, small domestic, and stockwater uses.

6. In order to limit the future appropriation of ground water within Water District No. 13-T, a moratorium order should be issued that mirrors the limitations originally adopted in the management policy.

such as irrigation of lands not associated with a dwelling, or irrigation of more than one-half acre associated with a dwelling, must be mitigated by the municipality.

4. The Department will continue to accept and process new applications for permit and applications seeking amendment or transfer of existing water rights. Applications for amendment or applications for transfer which propose changes in the points of diversion from outside Water District No. 13-T to within the district, which would directly, or indirectly, result in the irrigation of new land will be treated as a proposed new appropriation of water.

DATED this 31st day of August, 2004.



KARL J. DREHER
Director

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

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

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GRACE ID 83241

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POCATELLO ID 83204-4411

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D C, MAUDE OR VERGE HANSEN
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BOUNTIFUL UT 84010

RANDALL HUBBARD
2220 ALEXANDER ROAD
SODA SPRINGS ID 83276

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CITY OF BANCROFT
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BANCROFT ID 83217

DIAMOND G FARMS INC
PO BOX 186
BANCROFT ID 83277

ELIASON & SONS INC
PO BOX 67
BANCROFT ID 83217

GEM VALLEY FARMS
C/O CHAD NEIBAUR
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NEIBAUR FARM ENTERPRISES
C/O CHAD NEIBAUR
1550 CENTRAL RD
BANCROFT ID 83217

OZBURN FARMS
290 N 2ND E
SODA SPRINGS ID 83276

PARLEY L SCHENK & SONS
FARMS INC
1803 LUND RD
BANCROFT ID 83217

STODDARD FARMS OF GRACE
2004 TWO MILE RD
GRACE ID 83241

TERRY C JORGENSEN ET UX
1928 OLD HWY 30
BANCROFT ID 83217

USDA FARMERS HOME
ADMINISTRATION
159 E 2ND S #3
SODA SPRINGS ID 83276

WISTISEN LIVESTOCK CO
PO BOX 157
BANCROFT ID 83217

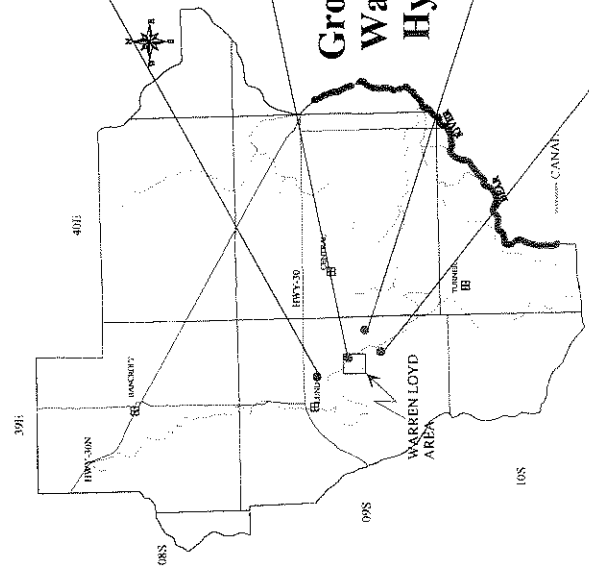
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C/O RULON WISTISEN
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BANCROFT ID 83217

MEYERS, THOMSEN & LARSON
BRUCE LARSON
PO BOX 4747
POCATELLO ID 83205-4747

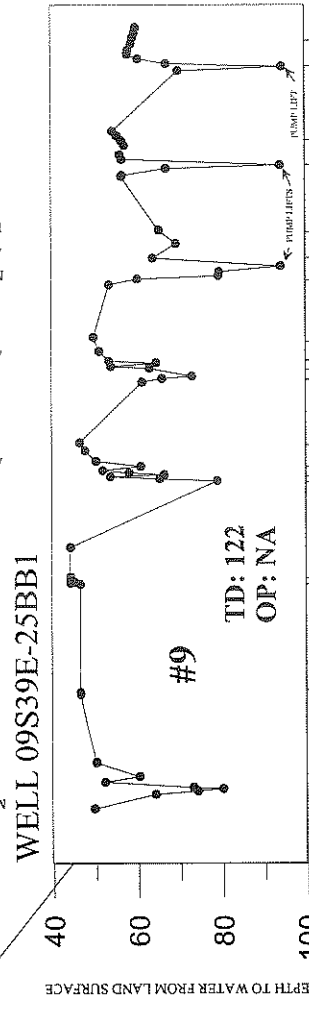
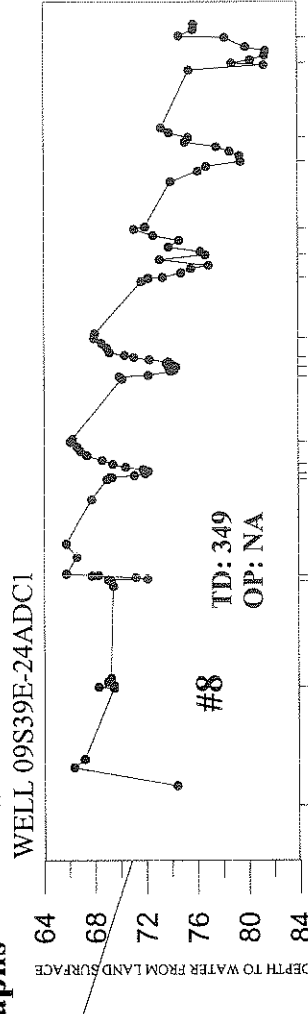
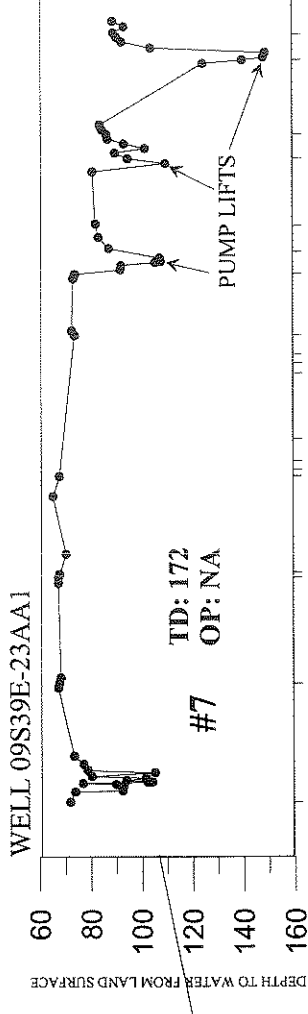
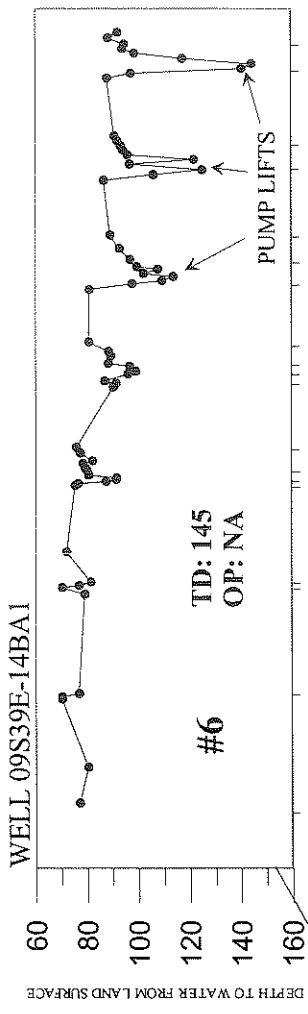
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RANDALL C BUDGE
PO BOX 1391
POCATELLO ID 83204-1391

BANCROFT LUND GWMA AREA



Ground Water Hydrographs



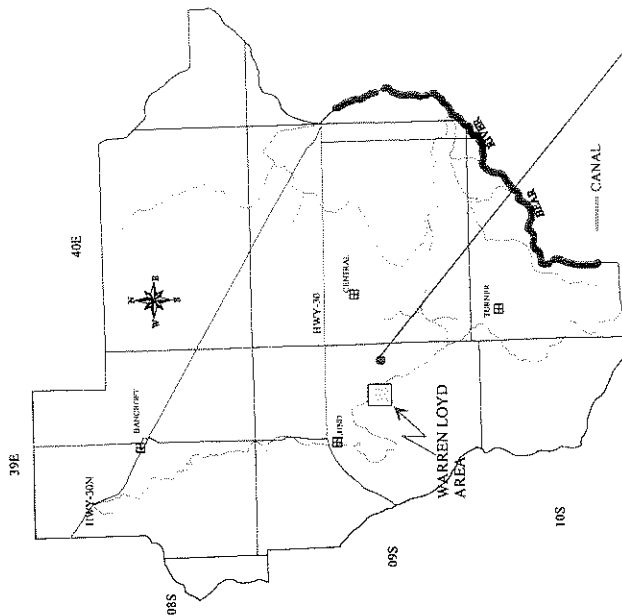
SHORT TERM LOCAL DATA

LEGEND

- TD: TOTAL DEPTH OF WELL
- OP: INTERVAL AT WHICH THE WELL IS PERFORATED OR OPEN TO THE AQUIFER
- BASE: YEAR
- ALL MEASUREMENTS IN FEET
- CURRENT TO FALL 2003
- WELL LOCATION
- MEASUREMENT

BANCROFT LUND GWMA AREA

CONTINUOUS RECORDER DATA



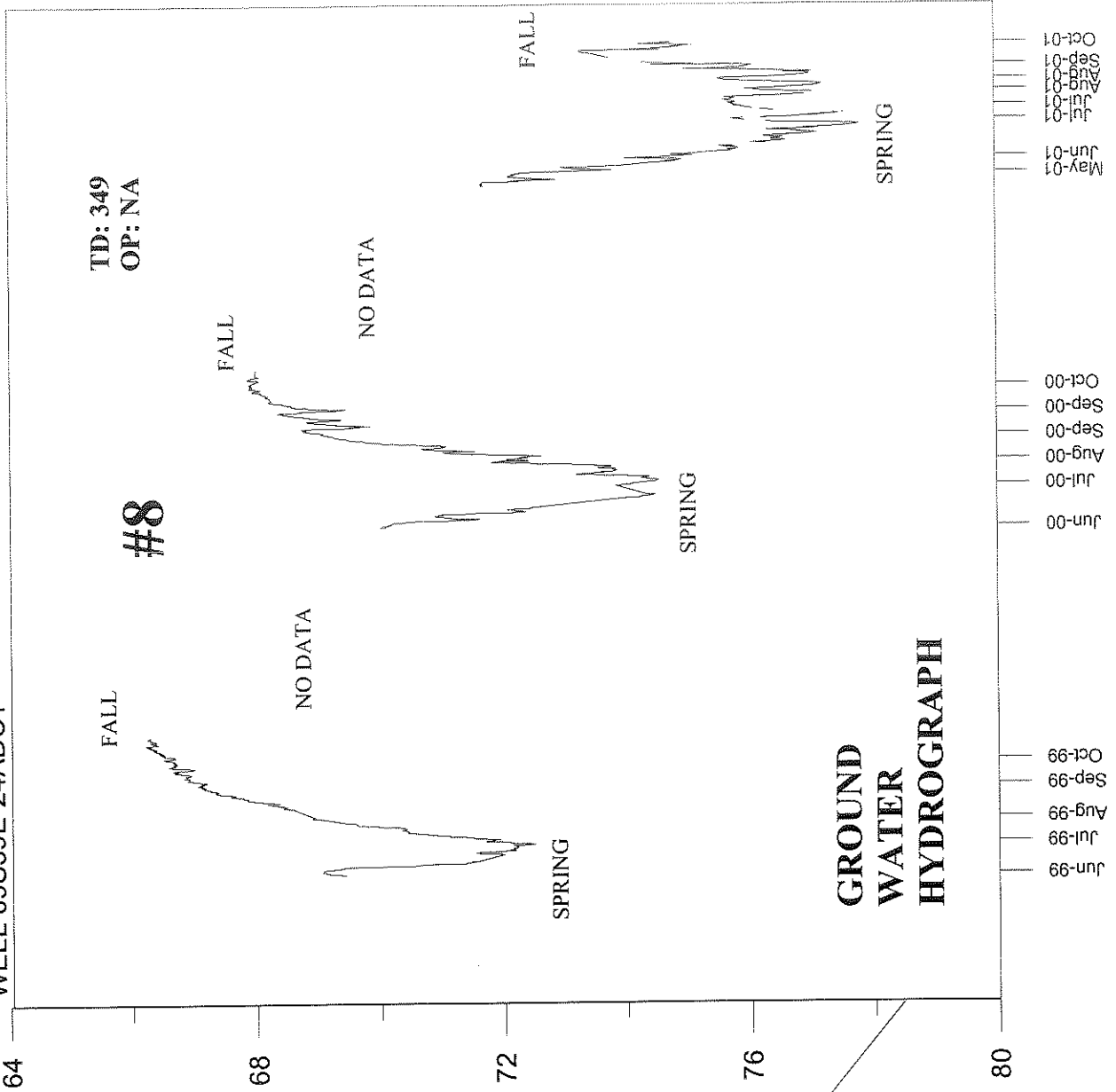
LEGEND

- TD: TOTAL DEPTH OF WELL
- OP: INTERVAL AT WHICH THE WELL IS PERFORATED OR OPEN TO THE AQUIFER
- BASE: YEAR
- ALL MEASUREMENTS IN FEET
- CURRENT TO FALL 2004
- WELL LOCATION

WELL 09S39E-24ADC1

TD: 349
OP: NA

#8



GROUND WATER HYDROGRAPH

Jun-99 Jul-99 Aug-99 Sep-99 Oct-99
Jun-00 Jul-00 Aug-00 Sep-00 Oct-00
May-01 Jun-01 Jul-01 Aug-01 Sep-01 Oct-01

