



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

November 26, 2007

Water District 45-F Water Users

Re: Water District 45-F Water Users Petition of Reconsideration to Final Order Creating Water District No. 140; Summary of Meeting and Hearing Held in Albion on October 3, 2007

Dear Water User,

On the evening of October 3, 2007, I conducted a hearing at the Albion Fire Department building in Albion regarding the Petitions of Reconsideration that were submitted to the Idaho Department of Water Resources (Department) on January 11, 2007 by Water District No. 45-F water users (Marsh Creek and tributaries) concerning the Final Order Creating Water District No. 140 signed by former Director Karl Dreher on December 28, 2006. The hearing itself was very brief but a lively and lengthy discussion was held among the participants prior to the formal hearing. Participants included about 17 water users from Water District No. 45-F, myself and several other Department representatives. I appreciated the turnout as well as the number of good questions and comments raised in our pre-hearing discussion.

At the conclusion of our meeting, and as a matter of record in the hearing, I committed to send a letter to the Water District 45-F water users stating that Water District No. 45-F will not be subject to future assessments from Water District No. 140 for the delivery of surface water as long as Water District No. 45-F provides for the adequate delivery of surface water rights and maintains sufficient records and reports related to the delivery of surface water from Marsh Creek and its tributaries. This letter re-affirms my commitment to this position during my tenure as Director of the Department. I do not anticipate this position changing after my tenure but I cannot guarantee that future Directors will not make modifications to this understanding, Water District No. 140, and/or Water District No. 45-F.

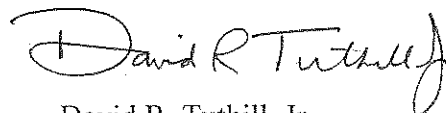
Water District No. 45-F will continue to elect its own watermaster and adopt its own annual budget and resolutions for delivery of surface water rights in the Albion-Marsh Creek Basin. During the pre-hearing discussion, some evidence was presented that Water District 45-F is currently providing for adequate distribution of surface water rights and keeping good records although both the watermaster and a number of users present indicated that some improvements could be made within the district, particularly in the area of water measurement. I applaud the water district's desire to make improvements in the distribution of water.

A second item of discussion prior to the hearing centered on identification of the ground water rights in the Albion Basin that should be included in the water district. The Final Order Creating Water District No. 140 ordered ground water rights in the Albion Basin and all of Administrative Basin 45, except for those ground water rights in Water District 45-O (Golden Valley), to be administered directly by the watermaster of Water District No. 140, recognizing however that sub-districts in Basin 45, including existing ground water districts and irrigation districts, could assume responsibility for the measurement and reporting of ground water diversions within their own districts. There is no reason therefore that Water District 45-F, acting as a sub-district within Water District No. 140, could not measure and report ground water diversions within Water District 45-F provided that such service is in accordance with Department guidelines. No determination was reached at our meeting on October 3rd regarding which water district entity would assume direct responsibility for measurement and reporting of ground water diversions in the Albion Basin. For now that responsibility should lie with Water District No. 140 unless Water District No. 45-F makes a specific request and submits a plan for measuring and reporting ground water diversions within its own boundaries.

I will soon be sending you an Amended Final Order Creating Water District No. 140. The amended order will provide clarification, consistent with this letter, regarding assessments to existing water districts designated as sub-districts within Water District 140.

If you have further questions or concerns about this correspondence and/or the forthcoming Amended Final Order Creating Water District No. 140, please contact Tim Luke at 208-287-4959, or contact either Cindy Yenter (Water District 140 watermaster) or Allen Merritt (Regional Manager) at our regional office in Twin Falls (208-736-3033).

Sincerely,



David R. Tuthill, Jr.
Director

Cc: Tim Luke, IDWR State Office
Allen Merritt, IDWR Southern Region
Cindy Yenter, IDWR Southern Region & Water District No. 140 Watermaster
Don Gunderson, Watermaster, Water District No. 45-F

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Added per Phil R