

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE MEASUREMENT)
OF WATER DIVERSIONS IN BASIN 36)
ORDER REQUIRING)
DIVERSION MEASUREMENT)

FINDINGS OF FACT

1. Increasing demands, coupled with several years of drought, have forced more careful analysis and management of Idaho's water resources.

2. To properly manage the state's water resources, the Department must know more facts about the availability of water, and how much water is being diverted by water users.

3. The 1994 Legislature enacted Senate Bills 1561 and 1562, and thereby directed the Department to require measurement of water diversions. The laws contemplate implementation of a statewide water measurement program for both surface and ground water.

4. Rule 050.01.b. of the Department's Rules for Conjunctive Management states that the "Eastern Snake Plain Aquifer is found to be an area having a common ground water supply." An area having a common ground water supply is defined by Rule 010.01 as a "ground water source within which the diversion and use of ground water . . . affect[s] the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights."

5. Basin 36, depicted in Attachment A, is a hydrologic basin within the Eastern Snake River Plain Aquifer. Many wells and surface water diversions from the Thousand Springs complex are located within the Basin 36 boundaries. The ground water and surface water sources are hydrologically connected.

6. Conflicts among ground water users, and between ground water users and surface water users in Basin 36 identify the basin as an area of water conflicts. Measurement of water withdrawals, data gathering and recording of data will help to better understand and resolve the conflicts.

CONCLUSIONS OF LAW

1. Idaho Code § 42-701 states that water users are required to install headgates or controlling works at their point of diversion and that the director may order the installation of measuring devices. It further states that the director must notify users who are required to measure at least thirty (30) days before measuring is to begin, but no later than March 15 of the year they are to begin measuring and reporting.

2. Idaho Code § 42-701 further states that water users may choose, upon approval of the Director, to estimate water withdrawals using power consumption records if installation of a measuring device is burdensome. The measuring requirement may be waived if the system is configured to allow meaningful diversion estimates and the user agrees to supply needed information. Users must file annual reports with the Department, along with a report processing fee of up to \$25.

3. Suitable headgates, controlling works and measuring devices should be constructed and employed in Basin 36 each year beginning with the 1995 irrigation season.

4. Water users who install measuring devices must file annual reports. As further clarification to the specific information required by the statute, the

annual reports should contain at least monthly readings of flow rate and the total monthly volume of water diverted. In addition, a ground water users must measure the depth to water prior to pumping, the depth to water while pumping at the beginning of the irrigation season, and the pressure in the system during normal operation.

5. Water users who do not install measuring devices, and whose diversions will be estimated using power records must sign an agreement with the Department and must file annual reports. The terms of the agreement will be established by the Department of Water Resources.

ORDER

IT IS HEREBY ORDERED that all water users diverting water within the boundaries defined by Basin 36 shall measure water diverted and file annual measurement reports for each year, beginning with 1995, except for diversions which:

- (a) for irrigation use, do not irrigate more than five (5) acres, or
- (b) for all other uses, do not exceed a diversion rate of 0.20 cfs.

Individual uses of less than the above described conditions, but which are diverted through a common system which exceeds the conditions are not exempt, and the total diversion into the common system must be measured. Water diverted directly from the Snake River need not be measured pursuant to this order in 1995. The watermaster will administer and measure water within Water District 01.

IT IS FURTHER ORDERED that irrigators must begin measuring or have a signed agreement on file with the Department of Water Resources to provide information to the Department prior to diversion of water in 1995, and in all subsequent years.

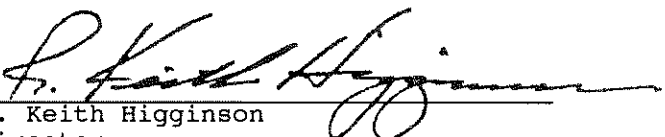
IT IS FURTHER ORDERED that nonirrigators must begin measuring on or before April 1, 1995, or at the time diversion begins in 1995 if after April 1, and continuously measure thereafter. The reporting period for nonirrigators is January 1 through December 31.

IT IS FURTHER ORDERED that ground water users shall return a Measurement Option Form to the Department on or before January 20, 1995.

IT IS FURTHER ORDERED that water users must file an annual report with the Department on or before January 15, 1996, accompanied by a \$20.00 report processing fee. Water measurement reports must also be filed in future years on or before January 15 following the year of measurement, with a report processing fee which will be established annually.

IT IS FURTHER ORDERED that failure to return the Measurement Option Form, or failure to install and measure water withdrawals or report information as per this order, any agreement with the Department, or the laws of the state of Idaho, is cause for the Director to issue a cease and desist order prohibiting the diversion of water, to seek injunctive relief, or to seek any possible penalty associated with administrative or judicial action.

Dated this 6th day of December, 1994.


R. Keith Higginson
Director